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Vol. II

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1940

No. 14

REPUBLIC STEEL CORPORATION, PETITIONER,

vs.

NATIONAL LABOR RELATIONS BOARD AND STEEL WORKERS ORGANIZING COMMITTEE

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE THIRD CIRCUIT

PETITION FOR CERTIORARI FILED FEBRUARY 7, 1940.

CERTIORARI GRANTED MAY 20, 1940.

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XXXII.

DECISION, FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER OF THE NATIONAL LABOR RELATIONS BOARD ISSUED OCTOBER 18, 1938

(Dated and Issued Oct. 18, 1938)

Mr. Mark Lauter, Mr. Lawrence Hunt, Mr. Oscar Grossman, Mr. Joseph A. Hoskins, for the Board.

Mr. Luther Day, Mr. Thomas F. Veach, Mr. Arno Erdrich of Day, Young and Veach, Cleveland, Ohio; Mr. J. G. Ketterer, Canton, Ohio; Mr. H. C. Pontius, of Lynch, Day, Pontius and Lynch, Canton Ohio; Judge Charles F. Smith, Mr. David E. Jones, Mr. Harry S. Manchester, Mr. R. D. Huxley, and Mr. George Renner, of Harrington, Huxley and Smith, Youngstown, Ohio; and Mr. Thomas Patton, Cleveland, Ohio, for the Company.

Mr. Lee Pressman, for the S. W. O. C.

Mr. Allan R. Rosenberg and Mr. Robert Burstein, of counsel to the Board.

DECISION AND ORDER

Statement of the Case

Upon charges and supplementary charges duly filed by Steel Workers Organizing Committee, herein called the S. W. O. C., the National Labor Relations Board, herein called the Board, issued its complaint, dated July 15, 1937,

against Republic Steel Corporation, Cleveland, Ohio, herein called the respondent, alleging that the respondent had engaged in and was engaging in unfair labor practices within the meaning of Section 8 (1), (2), and (3) and Section 2 (6) and (7) of the National Labor Relations Act, 49 Stat. 449, herein called the Act.

In respect to unfair labor practices the complaint in substance alleged (1) that during August 1936 and the period from February to May 1937 the respondent discharged and refused to reinstate certain named individuals employed at its plants at Youngstown, Canton, Massillon, Warren, and Cleveland, Ohio, for the reason that they joined and assisted the S. W. O. C. and engaged in concerted activities for the purpose of collective bargaining and other mutual aid and protection: (2) that on or about May 5, 1937, the respondent locked out and refused to reinstate almost all of its employees at its tin plate mill in the Canton plant, and that on or about May 12, the respondent locked out and failed to reinstate a considerable number of its employees at its Massillon plant, for the reason that they joined and assisted the S. W. O. C. and engaged in other concerted activities for the purpose of collective bargaining and other mutual aid and protection; (3) that on or about May 26, 1937, by reason of the aforesaid acts of the respondent and its refusal to enter into a written agreement with the S. W. O. C. the employees of the respondent at its various plants went out on strike, which strike continued to the date of the issuance of the complaint; (4) that the respondent compelled a considerable number of employees at its Warren plant to remain at their jobs within the plant, and threatened to discharge such employees if they left the plant and joined the employees on strike and further refused to reinstate certain named employees at its Warren plant, and sought to compel others to return as new employ-

ees with the loss of former positions and seniority rights, for the reason that they left the plant during the progress of the strike and joined and assisted the S. W. O. C.; (5) that between June 23 and July 2, 1937, the respondent discharged and refused to reinstate to their former positions certain named individuals employed at its Youngstown plant for the reason that they joined and assisted the S. W. O. C. and engaged in concerted activities for the purposes of collective bargaining and other mutual aid and protection; (6) that the respondent dominated and interfered with the formation and administration of certain named labor organizations at its Youngstown, Warren, Canton, Massillon and Cleveland plants; (7) that the respondent threatened its employees at its Youngstown, Warren, Niles, Canton, Massillon and Cleveland plants with discharge if they joined or assisted the S. W. O. C., and by its officers and agents followed and brutally attacked organizers of the S. W. O. C. at its plants in Cleveland, Youngstown and Warren; (8) that the respondent immediately prior to and after the commencement of the strike increased the number of its police force in its various plants and used such police for the purpose of interfering with the right of its employees peacefully to picket the plants and for the purpose of intimidating its striking employees; (9) that the respondent, in collusion with the aforesaid labor organizations dominated and controlled by the respondent, before and after the commencement of the strike called upon its employees at their homes and elsewhere in Youngstown, Warren, Canton, Massillon, and Cleveland, and intimidated and coerced them into signing so-called back-to-work petitions and other petitions, upon threat of the loss of their jobs; (10) that the respondent maintained extensive arsenals at its plants in Youngstown, Warren, Niles, Canton, and Cleveland for the purpose of interfering with, restraining and coercing its employees in the exercise of their rights to self-organ-

ization, and interfered with the right of its employees peacefully to picket its plants by shooting at them and throwing bolts and other dangerous missiles at them; and (11) that by these and other acts the respondent interfered with, restrained and coerced, and is interfering with, restraining and coercing, its employees in the exercise of the rights guaranteed in Section 7 of the Act.

Copies of the complaint and notice of hearing to be held on July 21, 1937, at Washington, D.C., were duly served upon the respondent and the S. W. O. C. Pursuant to this notice, on July 21, 22, 23, 1937, a hearing was held in Washington, D. C., before the Board. At the outset of the hearing, the respondent moved to adjourn and transfer the hearing to Cleveland, Ohio. The Board denied this motion, but granted the respondent until August 4, 1937, to file its answer to the complaint. Thereafter, without waiving any of its objections to jurisdiction, the respondent participated in the hearing.

In its answer, dated August 2, 1937, the respondent denied the allegations of unfair labor practices alleged in the complaint, denied that the employees named in the complaint were engaged in interstate commerce, admitted that its employees went out on strike, but denied that they went out on strike for the reasons alleged in the complaint, and alleged that the strike was called by the S. W. O. C., acting pursuant to the direction of Committee for Industrial Organization, without any cause or justification and solely for the selfish advantage of those committees in an attempt to gain control of the employees of the respondent and generally of all steel company employees. The answer further alleged, inter alia, that at the time the strike was called there was no labor dispute between the respondent and its employees, and no difference as to wages, hours, and working conditions; that a large percentage of the

respondent's employees did not go on strike but remained at work and that others returned to work promptly after the Ohio National Guard had been called out to protect them while going to and from the respondent's plants, against assaults, violence, coercion and intimidation on the part of the strike and of the S. W. O. C. and its agents and representatives; that none of the alleged unfair labor practices complained of interfered with the respondent's operations, caused a labor dispute or affected or tended to affect commerce; that the Board has no jurisdiction to hear and determine assault and battery and felonious assault cases; and that the complaint was so indefinite as not to inform the respondent of the issues to be met, and therefore further proceeding thereunder was a denial to the respondent of due process of law.

Thereafter, pursuant to notice, the hearing was continued before John T. Lindsay, the Trial Examiner duly designated by the Board. Hearings were held from August 9 to August 12 in Canton, Ohio, from August 20 to August 24 in Youngstown, Ohio, from August 27 to August 30 in Cleveland, Ohio, from September 1 to September 16 in Canton, Ohio, from September 17 to September 21 in Youngstown, Ohio, and from September 23 to September 27, in Cleveland, Ohio. The Board, the respondent, and the S. W. O. C. were represented by counsel and participated in the hearing. Full opportunity to be heard, to examine and cross-examine witnesses, and to produce evidence bearing upon the issues was afforded to all parties.

During the hearing, the Trial Examiner granted a motion by counsel for the Board to amend the complaint by striking therefrom the names of certain employees alleged to have been discriminatorily discharged or re-

fused reinstatement. At the close of the Board's case, the respondent moved to dismiss the complaint on the grounds that the alleged unfair labor practices did not affect interstate commerce and were not established by the evidence. The Trial Examiner denied the motion. At the close of the respondent's case, the Trial Examiner granted a motion by the attorney for the Board that the complaint be conformed to the proof adduced during the hearing.

During the course of the hearing, the Trial Examiner made numerous rulings on motions and objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. Except as noted below the rulings are hereby affirmed.[1]

On January 21, 1938, the respondent, filed a motion with the Board for leave to introduce additional evidence, or in the alternative, to submit and have incorporated in the record as a part thereof, an offer to prove with relation to the evidence so excluded. On March 28, 1938, pursuant to an appropriate order of the Board, the respondent submitted its offer to prove.

On April 8, 1938, the Board issued findings of fact and an Order in the case. The Order directed the respondent to cease and desist from (a) dominating and interfering with any labor organization of its employees, (b) discouraging membership in the Amalgamated Association of Iron, Steel, and Tin Workers of North America or the S. W. O. C. or any other labor organization of its employees by discharging and refusing to reinstate employees, or otherwise discriminating in regard to hire or tenure of employment or any form or condition of em-

1. The Trial Examiner took under advisement, without ruling on their admissibility in evidence, Respondent's Exhibits Nos. 8, 15, 16, 17, and 18. These exhibits will be admitted.

ployment or by threat of such discrimination, (c) in any other manner interfering with, restraining and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act. The Order also required the respondent to take certain affirmative action, *inter alia*, to offer, upon application, to those employees at its plants in the Canton, Massillon, Youngstown, Warren and Cleveland districts, who went on strike on May 25, 1937, and thereafter, and who had not been fully reinstated to their former positions (with specified exceptions) immediate and full reinstatement to their former or substantially equivalent positions without prejudice to their seniority or other rights or privileges; or, in the event sufficient positions were not available, to place such employees upon a preferential list, to be offered employment as work became available, in accordance with principles set out in a part of the findings entitled "The remedy." The Order also directed the respondent to make whole all the aforesaid employees for any losses suffered by reason of any refusal to reinstate them upon application or to place them upon a preferential list, by payment to each of them of a sum of money equal to that which each of them would normally have earned as wages during the period from the date of any such refusal of their application to the date of the offer of reinstatement or placement upon a preferential list, less the amount, if any, which each, respectively, earned during said period. On April 18, 1938, the respondent filed in the United States Circuit Court of Appeals for the Third Circuit its petition to review and set aside the Order of the Board. On April 30, 1938, in open court, counsel for the Board notified the Circuit Court that the Board was considering vacating its Order and on May 3, 1938, the Board notified the respondent that it had definitely decided to do so on the following day. Before the Board could vacate its Order pursuant to this notice, the Circuit Court on May 3, 1938,

issued a rule directing the Board to show cause on May 13, 1938, why it should not be required to certify and file in the Circuit Court a transcript of the record in the proceedings before the Board; at the same time the Circuit Court issued an order restraining the Board from taking any action in the case until the return day of the rule. On May 6, 1938, the Board filed with the clerk of the Circuit Court its motion, returnable May 9, 1938, for the vacation of the restraining order. The Circuit Court took the motion under advisement. On May 13, 1938, the Circuit Court made absolute the rule of May 3, 1938, requiring the Board to file a certified transcript of the record, and enjoined the Board from taking any further steps or proceedings in the case until the record was filed. On the same day the Board duly presented to the Supreme Court of the United States its petition for writs of mandamus and prohibition directing the Circuit Court to vacate its order of May 13, 1938, and prohibiting that Court from exercising any jurisdiction upon the petition of the respondent to review and set aside the Board's Order without affording the Board a reasonable opportunity to vacate its order. On May 31, 1938, the Supreme Court rendered its opinion holding that the Circuit Court lacked jurisdiction to enter the order of May 13, 1938, and stating that, in view of the expression of willingness by the Circuit Judges to vacate the order of May 13, 1938, if the Supreme Court deemed said order to have been entered without jurisdiction, the issue of the writs prayed by the Board was supererogatory. On June 7, 1938, the Circuit Court, in compliance with the opinion of the Supreme Court, entered its order vacating the order of May 13, 1938. On June 14, 1938, the Board, having duly notified all the parties, entered its order vacating and setting aside its findings and Order of April 8, 1938, and directing that such further proceedings be taken in the case before the Board as the Board may be advised are

necessary or desirable. On June 27, 1938, the Circuit Court, upon motion of the Board, dismissed the respondent's petition to review and set aside the Order of April 8, 1938.

On July 8, 1938, the Board denied a motion filed by the respondent to dismiss the complaint herein and overruled an objection by the respondent to further proceedings by the Board in this cause. On the same day, the Board ordered Proposed Findings of Fact, Proposed Conclusions of Law, and Proposed Order herein to be issued, granted the parties the right to file exceptions, and briefs in support of such exceptions, and directed a hearing to be held before the Board for the purpose of oral argument upon any exceptions filed and upon the issues raised by the pleadings and evidence. On the same day, the Board issued Proposed Findings of Fact, Proposed Conclusions of Law and Proposed Order which were substantially the same as the findings and Order of April 8, 1938. Thereafter, both the respondent and the S. W. O. C. filed exceptions, and briefs in support of their exceptions, to the Proposed Findings of Fact, Proposed Conclusions of Law, and Proposed Order. The respondent also moved that the record be reopened for further proceedings and that the respondent be permitted to introduce additional evidence, or in the alternative, that it be permitted to have incorporated into and made a part of the record specified offers to prove. On July 26, 1938, the Board denied a petition for leave to intervene in the proceedings, filed on July 22, 1938, by the Central Council of Steel Plants, Northern District of Republic Steel Corporation. On August 11, 1938, a hearing before the Board was held for the purpose of oral argument, at which the respondent and the S. W. O. C. were represented by counsel.

We have considered the exceptions of the respondent

and the S. W. O. C. and, except as granted herein, find them without merit. For reasons discussed below, the respondent's motion to reopen the record and for leave to introduce additional evidence is hereby denied. The respondent's alternative motion that specified offers to prove be incorporated into and made a part of the record herein is hereby granted.[2]

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE RESPONDENT

The respondent, Republic Steel Corporation, is a New Jersey corporation with its principal executive offices in Cleveland, Ohio. Its total assets as of 1936 were valued

2. The respondent in its motion to reopen the record and in its offer to prove seeks to introduce in evidence a true copy of the copy of the findings and Order issued by the Board on April 8, 1938, which was sent by the Board to the respondent or its counsel on or about the time of the issuance thereof, and a true copy of the copy of the Proposed Findings of Fact, Proposed Conclusions of Law, and Proposed Order issued by the Board on July 8, 1938, which was sent to the respondent or its counsel on or about the date of the issuance thereof. Since both the findings and Order of April 8, 1938, and the Proposed Findings, Proposed Conclusions of Law, and Proposed Order of July 8, 1938, are already a part of the record herein and are identical with copies sent by the Board to the respondent or its counsel, at the time of issuance, it is unnecessary to reopen the record to permit their introduction in evidence. The respondent also seeks to introduce evidence that after the Board had issued its order on June 14, 1938, setting aside its findings and Order of April 8, 1938, and ordering that such further proceedings herein be taken as the Board might be advised were necessary or desirable, the respondent asked the Board by letter dated June 30, 1938, to notify the respondent if, as, and when the Board determined to take further proceedings so that the respondent could take whatever action it deemed advisable to protect its interests before further proceedings were had, but that without first notifying the respondent as to what further proceedings it proposed to take, the Board on July 8, 1938, made and issued its Proposed Findings of Fact, Proposed Conclusions of Law, and Proposed Order of July 8, 1938, which are substantially identical with its original findings and Order of April 8, 1938. Here again the evidence which the respondent seeks to introduce is already a part of the record herein, and it is unnecessary to reopen the record to permit its introduction in evidence.

at $343,950,000. On May 1, 1937, the respondent and its subsidiaries employed 59,282 persons, 40,172 of them in the Ohio plants.

The respondent has developed an organization which is highly integrated from the mining of ore and other raw materials to the manufacture and distribution of a widely diversified line of finished products. In a registration statement filed with the Securities and Exchange Commission on October 21, 1936, the respondent described its business as follows:

> "The registrant (Republic Steel Corporation) is primarily an operating company, but certain divisions of its business are conducted through subsidiaries. It is engaged in the manufacture and sale of a diversified line of iron and steel products and ranks as the third largest steel company in the United States, having an annual ingot capacity of approximately 6,053,000 tons. The products of the registrant include pig iron, semi-finished steel, alloy steels, special steels, billets, bars, pipe, hot and cold rolled sheets, and strip, tin and terne plate, bolts and nuts, fabricated material and other products. It is a leading manufacturer of alloy steels, including stainless steel and high tensile steels, and is an important producer of steel for the automobile industry and of electrically welded pipe."[3]

The respondent and its subsidiaries—36 in number—operate numerous manufacturing plants. The principal iron and steel producing, manufacturing, and finishing

3. Board's Exhibit No. 108. The acquisition of Gulf States Steel Co. in April 1937 further strengthened the respondent's position as the third largest producer of steel in the United States. It provided the respondent with a well-integrated unit located at Gadsden, Alabama, having annual production facilities for about 400,500 tons of ingots, 297,600 tons of finished hot roll steel products, and finishing facilities for turning out large amounts of wire and wire products, nails and staples, sheets, and miscellaneous products used chiefly in the southern market.

plants which are in operation or have been operated within a recent period are located at Youngstown, Warren, Cleveland, Canton, Massillon, Niles, Campbell, and Elyria, Ohio; Brooklyn and Buffalo, New York; Chicago and Moline, Illinois; Hartford and Unionville, Connecticut; Pittsburgh and Beaver Falls, Pennsylvania; Gary and Muncie, Indiana; Monroe, Michigan; Cumberland, Maryland; Minneapolis, Minnesota; Birmingham and Gadsden, Alabama; Los Angeles, California; and Hamilton, Ontario, Canada. The respondent obtains more than half of its requirements of iron ore and coal from its own mines and the balance from the mines of companies in which it has an interest and by purchase from others. The respondent and its subsidiaries own or hold under lease extensive iron ore properties in Michigan, Minnesota, and Alabama; and coal properties in Pennsylvania, Kentucky, and West Virginia.

We are concerned in this case particularly with the Ohio plants of the respondent located at Massillon, Canton, Youngstown, Warren, Niles, and Cleveland. With respect to these plants, both the outgoing shipments of iron and steel products and the incoming shipments of raw materials are preponderantly interstate in character. Thus, at the Canton works, shipments of products to points outside of Ohio for the year 1936 aggregated in value $19,717,266.36, whereas the shipments to points within Ohio aggregated $6,704,783.29; at the Massillon works, the respective aggregates were $17,533,026.74 and $4,823,432.13; at the Youngstown works, $25,321,814.36 and $5,176,815.58; at the Warren works, $24,014,830.69 and $11,891,949.34; at the Niles works, $754,829.05 and $2,932,243.42; and at the Cleveland works, $14,523,006.98 and $7,485,938.65.[4]

4. These products include semi-finished carbon, carbon bars and bar products, stainless sheet and strip and miscellaneous alloy, alloy bars, electric weld pipe, butt weld pipe, lap weld pipe, semi-finished alloy, sheets, hot rolled strip, hot rolled strip sheets, cold rolled strip, cold rolled strip sheets, miscellaneous scrap, and northern pig iron.

The respective aggregates in value of the principal raw materials which originate outside of Ohio and those which originate within Ohio are approximately as follows: Canton—$7,681,335 and $3,907,721; Massillon—$5,312,093 and $1,567,287; Youngstown—$15,395,589 and $1,762,342; Warren—$5,961,680 and $1,397,822; Niles—$122,542 and $71,276; Cleveland—$13,685,764 and $3,706,148.[5]

II. THE UNION

While the record contains no detailed evidence relating to the structure and function of the Steel Workers Organizing Committee and the Amalgamated Association of Iron, Steel and Tin Workers of North America, we have found upon numerous occasions in other cases, and the record as a whole in this case makes clear, that these organizations are labor organizations affiliated with the Committee for Industrial Organization.[6]

III. THE UNFAIR LABOR PRACTICES

All the plants of the respondent are operated as part of a single, integrated business, and its labor policy in each plant is directed from a single source. The unfair labor practices alleged in the complaint relate to the respondent's plants in the Massillon, Canton, Youngstown, Warren and

5. These raw materials include coal, iron, ore, limestone, sinter, scrap, ferro manganese, ferro silicon, nickel, vanadium, molybdenum, chrome ore, tin, spelter, dolomite, fluor spar, brick, acid, clay, lime, fuel oil, moulds and tools, pyrites, magnesite, sand, soda ash, crushed silica rock, ganister and flue dust.

6. Matter of *Jones and Laughlin Steel Corporation*, Case No. C-57, 1 N. L. R. B. 503; Matter of *Wheeling Steel Corporation*, Case No. C-3, 1 N. L. R. B. 699; Matter of *Fansteel Metallurgical Corporation*, Case No. C-235, 5 N. L. R. B. No. 124; Matter of *Petroleum Iron Works Company*, Case No. R-255, 3 N. L. R. B. 774; Matter of *Lunkenheimer Company*, Case No. R-471, 4 N. L. R. B. No. 131; Matter of *Combustion Engineering Company, Inc.*, Case No. R-242, 5 N. L. R. B. No. 61; Matter of *Eagle Manufacturing Company*, Cases Nos. C-478 and R-390, 6 N. L. R. B. No. 73.

Cleveland districts. We take up in order the events occurring in each of these cities.

A. Massillon

The respondent and its wholly owned subsidiary, Union Drawn Steel Company, operate two plants in or near Massillon: the Massillon Works (Central Alloy District) located in Stark County, just outside the city limits, employing approximately 3200 employees; and the Union Drawn Steel Company plant located in the City of Massillon, at some distance from the Massillon Works, and employing approximately 450 employees.

We turn first to the Plan of Employee Representation and its successors at the Massillon Works—the Employees' Representative Association and the Independent Association of Republic Employees. Against this background we consider the organizing campaign of the S. W. O. C., the strike which began on May 25, 1937, the Back-to-Work movement, the activities of the Law and Order League of Massillon, and the tragic history of the July days of the strike.

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1. *The Plan of Employee Representation and its successors,—the Employees' Representative Association and the Independent Association of Republic Employees.*

In June 1933, the respondent prepared and introduced in its Massillon Works "A Plan of Employee Representation." Similar plans were introduced at the same time in its other plants and in the steel industry at large. The formal outlines of the Plan were contained in the Articles, drawn up by the respondent and distributed to the employees at the time of its inauguration. As expressed in the Plan, its purpose was to provide "an orderly and expeditious procedure for the prevention and adjustment of any

future differences, to insure justice, maintain tranquillity and promote the common welfare."

The Plan functioned through Joint Committees, composed of representatives of the employees and Company representatives named by the management. The Employee Representatives were elected annually on the basis of one representative for every 200 employees in each department.[7] All the employee Representatives elected throughout the Massillon Works constituted the General Body of Employee Representatives. After each annual election the General Body chose members for four standing committees. These committees, with the addition of Company Representatives who might equal but could not exceed in number the Employee Representatives, constituted the Joint Committees.

If an employee was unable to adjust a grievance with the foreman of the work on which he was engaged, he might take the matter up either in person or in writing through his Employee Representative, first with the superintendent concerned, second with the Management Representative,[8] third with the management, which either tried to effect a settlement or, with the approval of all the parties, referred the matter to the proper Joint Committee. If, thereafter, the dispute had not been satisfactorily settled within a reasonable time the employee through his Representative or the management through the Management Representative might require the matter to be referred to the Joint Appeals

7. Only employees who were 21 years of age or over and who were American citizens, were eligible to be Employee Representatives.

8. The Management Representative was appointed by the management to facilitate close relationships between the management and the Employee Representatives. He was to respond to requests from Employee Representatives; to attend, but not vote at, meetings of the Joint Committees; to refer for the management any matter to any committee of Employee Representatives, and refer to the Management any matter presented by a committee of Employee Representatives. Upon the joint approval of the Chairman of the General Body of Employee Representatives and the Management Representative depended the right of all committees and of the General Body of Employee Representatives to hold special meetings or regular meetings at any other time than that provided for in the Plan.

Committee, which, in its turn attempted to effect a settlement. If this failed, the Plan provided that the President of the Company should be notified and the matter referred to arbitration, "if the President and a majority of the Employee Representatives on the Joint Appeals Committee agree to such reference."

The Plan also provided that the Company should defray all the expenses of the operation of the Plan, including the pay of Employee Representatives. No provision, therefore, was made for dues or for the office of treasurer. Likewise there was no provision for membership in the Plan, all employees having the right to vote for Employee Representatives, and no provision for general meetings of employees. Finally, the Plan could be amended only by two-thirds vote of the entire membership of the Joint Committee on Rules, Ways, and Means, or by concurrent majority vote of both the General Body of Employee Representatives and the Representatives of the Management at an annual conference.[9]

Under these provisions of the Articles the respondent retained full control over the operations of the Plan. No amendment was possible without the respondent's approval. No matter could be referred to arbitration unless the respondent agreed. Not only was there no provision for meetings of employees as a body, but in fact the employees were precluded from any direct concern with the functioning of the Plan. All the expenses, including the time spent by Employee Representatives at meetings or adjusting grievances, were met by the respondent. Even the right of the General Body and all committees of Employee Rep-

9. During the fall of 1936, a Central Council, composed jointly of representatives of management and of Employee Representatives selected by the General Body of each of the respondent's plants, was informally instituted. All of its expenses were borne by the respondent. In or after March 1937, at meetings of the Central Council in the respondent's offices in Cleveland a revision was proposed and later amendments were adopted, formally incorporating the Central Council in the Articles of the Plan.

resentatives to hold special meetings or regular meetings at any other time than that provided in the Plan, depended on the approval of the respondent. Thus behind its outward semblance of democratic procedure and its announced purposes of insuring justice and promoting the common welfare, the Plan was shrewdly designed to foreclose genuine collective bargaining and to fix firmly in the hands of the respondent an indisputable control over its employees.

From start to finish, the Plan was the respondent's own. The respondent prepared it, inaugurated it, and continued it in effect for almost four years, without ever submitting it, for acceptance, alteration, or rejection, to a vote of its employees. Further, the respondent lost no opportunity, through statements of its officials and otherwise, to impress upon its employees the virtues of the Plan and to exhibit its opposition to "outside unions." [10] Thus the respondent dictated the type of representation and "collective bargaining" it was willing to allow its employees to have.

The following incident illustrates the manner in which the Plan operated:

At the regular monthly meeting of the General Body of Employee Representatives, held in the respondent's Industrial Relations Building on September 22, 1936, a request was made to the Management Representative for a general wage increase for the employees of the Massillon District. "Mr. Portz (then District Manager for the Central Alloy District, Canton and Massillon Works) discussed this item in detail and stated it was impossible for Management to grant this request. He also stated that when all conditions warrant this item will be given consideration."

On November 6 the Massillon newspapers carried an announcement of a general wage increase for the Massillon

10. Further evidences of the respondent's domination over the Plan are discussed *infra*.

District. On the following day, Portz called a special meeting of the General Body of Employee Representatives and announced that effective November 16, 1936, wage rates would be increased 5½ cents per hour in the lower wage brackets. Despite the fact that "there was some kick . . . because they hollered about the newspapers having it before the representatives had it," the General Body went through the solemn procedure of voting on a motion that the wage increase be granted. The motion was carried. Such was collective bargaining under the Plan.[11]

On April 13, 1937, the day after the Supreme Court upheld the constitutionality of the Act, Carl Myers, Acting District Manager of the Canton and Massillon Works, summoned the General Body of Employee Representatives to a meeting in the Industrial Relations Building of the Massillon Works and announced that the respondent would withdraw financial support from the Plan. After Myers left the room, the Employee Representatives immediately formed "The Employees' Representative Association." Nick Linckenhely and Nathan Brown, chairman and secretary of the General Body of Employee Representatives under the Plan, were chosen by the Employee Representatives as president and secretary of the Association. Paul Hoffman, an Employee Representative under the Plan, was chosen treasurer. For their attendance at this meeting, the Employee Representatives were paid by the respondent.

The same committees which had existed under the Plan continued as committees of the Association. Linckenhely testified that the committees "kept on functioning the same as before, that is, committees seeing the foremen about grievances and superintendents"; that the committees continued to be paid by the respondent for handling grievances, "the same as before"; that the committees circulated

11. A similar incident occurred in March 1937.

application cards for membership in the Association throughout the plant and elsewhere on company property, during working hours, on company time; that the Employee Representatives took no steps to dissolve the Plan; and that the Employee Representatives adopted and used as the constitution of the Association the Plan as amended on April 22, 1937.[12]

The history and nature of these amendments reveal the extent to which the Plan and the Association were subject to the domination of the respondent. At a conference of the Central Council of Employee Representatives in the respondent's offices at Cleveland on March 8, 1937, the question of amending the Plan was discussed but deferred for later consideration. Shortly afterwards, E. L. O'Connell, temporary secretary of the Central Council, submitted a proposed revision of the Plan to the Employee Representatives from the various plants and to the respondent's vice president in charge of operations and its Director of Industrial Relations at Cleveland. This revision contained minor changes, of a kind calculated to diminish, but in no way to remove, the respondent's control.

Soon after the submission of the proposed revision to the respondent the decisions of the United States Supreme Court upholding the constitutionality of the Act were handed down. The proposed revision was then further altered. In its final form the amended Plan, while omitting certain of the most obvious practices forbidden by the Act, retained the same general structure. Articles dealing with the pay of Employee Representatives and the holding of Central Council meetings in the respondent's general offices were eliminated. The Joint Committees were abolished, though the four committees of Employee Representatives remained. Any matter might be referred by a committee

12. The plan apparently continued in existence under its original name, at Massillon.

of Employee Representatives to the management through the Management Representative; and the management through the Management Representative might require a grievance which had not been satisfactorily adjusted to be referred to the proper committee of Employee Representatives. Requests for changes in rates of pay were to be considered closed upon a decision of the proper committee of Employee Representatives and the management, unless an appeal was filed in writing by an employee or his Representative with the Management Representative within a period of 3 days after the decision was rendered.

Although the General Body of Employee Representatives was to elect a treasurer, no provision was made for initiation fees, dues, or funds for the payment of any expenses which might be incurred.[13] Employee Representatives continued to be elected on a basis of one for every 200 employees in each department, and meetings of the General Body of Employee Representatives and of the committees were to be held monthly thereafter. No provision was made for meetings of the membership at any time and membership continued to be automatic.[14]

The record does not disclose the circumstances under which the final draft of the proposed revision was prepared or approved. It does appear, however, that mimeographed copies of the Plan as amended, identical for the Massillon and Canton plants, were circulated shortly after April 22, 1937. It was stated in the preamble of the amended Plan that the amendments had been "adopted." Linckenhely testified that at one of the meetings of the Central Council, the Employee Representatives "revised those by-laws. We

13. There is some evidence that dues of two dollars a year were to be fixed at some future date, but the record contains no evidence that dues were collected by the Employee Representatives or contributed by the employees.

14. As stated above, it appears from the testimony of Linckenhely that, despite the absence of any provision for membership, the committees of the Association did attempt to obtain signatures to membership application cards.

had a meeting with the management in regards to them." Since under the Plan the adoption of amendments required the approval of the respondent, it is a fair inference that the amended Plan—accepted as the constitution of the Association—was, at the very least, approved by the respondent before becoming effective.

As under the Plan, no meetings of the membership of the Association were ever held and the members never participated in or had a voice in its affairs. Pressure by the respondent in favor of the Association and against the outside Union continued as it had under the Plan. Thus Peter Mouyios, as we find below, was laid off on May 3 because of his refusal to join the Association. Again Russell Eckroad, a head rougher in the hot mill, testified that near the end of April at a meeting in the mill of 28 head roughers, Superintendent Alvin Smith, after mentioning a decrease in orders, and the high cost of production at the Massillon Works, said "that he thought everybody was satisfied with the company representation plan . . . if the C.I.O. organization would come in here, that there was still a good chance of not working . . . that possibly it would shut down the plant. If it did not, we would work only one or two days a week after that." Andrew Evans, sheet mill superintendent, announced that he agreed with Smith; and then Foreman David Lewis spoke: "'Boys,' he says, 'we all been working good. We have all been drawing nice pay . . . If this thing happens, if C. I. O. comes in here, and there is a strike in this plant, and this plant shuts down, a lot of you boys are going to lose your homes, your automobiles and you won't know where your next bite is coming from'."

The respondent did not call Smith, Evans, or Lewis as witnesses and made no showing as to their unavailability. It did seek to rebut Eckroad's testimony through Arthur

Kemp, another employee present at this meeting. Nevertheless, in the light of Smith's speeches on another occasion, referred to hereafter, we are inclined to credit Eckroad's version. Even on Kemp's version, however, it is clear that the respondent's supervisory officials were attempting to coerce the employees into joining the Association and not joining the S. W. O. C.

Despite the respondent's efforts to use the Plan and the Association to thwart self-organization among its employees, the S. W. O. C. continued to gain ground in the Massillon plant. On May 25, 1937, the employees at Massillon went out on strike. Throughout the strike the chief figures in the Plan and the Association played leading roles in the Back-to-Work movement. These matters are discussed at length hereafter and we pass now to the formation of the Independent Association of Republic Employees upon the reopening of the plant in July.

On July 6, 1937, the day on which he returned to work, Nick Linckenhely, Chairman of the General Body of Employee Representatives under the Plan, President of the Association, and the leading spirit in the Back-to-Work movement, called a noon hour meeting of 16 employees, in the pipe shop of the Massillon Works, to form a successor organization to the Association. Linckenhely testified that he sent for the 16 employees before and during working hours. Four Employee Representatives, in addition to Linckenhely, attended. Because of the odium attached to the use of the word "Representative" in the title of the Association, the committee of 16 decided to name the new organization the Independent Association of Republic Employees, pursuant to a suggestion made at one of the Cleveland meetings of the Central Council of Employee Representatives held under the Plan. The committee of 16 also elected as temporary officers the same Employee Represen-

tatives who had been officers under the Plan and the Association. With the formation of the Independent, the Association disappeared from the scene.

Later a new set of permanent officers was elected, none of whom, except Linckenhely, the vice chairman, appear to have been officers or Representatives in the predecessor organizations. Twenty-seven Employee Representatives, called the committee of 27, were also elected, on the basis of one for every 200 employees, "to have a way of dealing with the Company, representing the men." Many, if not all, of those elected had been Employee Representatives in the predecessor organizations and active in the Back-to-Work movement. On August 2 and 3, at the call of the chairman of the Central Council of Employee Representatives, the officers of the Independent met in Cleveland to discuss the adoption of a constitution and by-laws. As of September 13, the constitution and by-laws had not been adopted. At the time of the hearing, the Independent claimed to have a membership of approximately 2400, of whom approximately 1900 had paid their initiation fees and dues.

Like its predecessors the Independent was merely the creature of the respondent. The committee of 27 was allowed to obtain dues, initiation fees, and signatures to membership cards in the plant during working hours. Notices of further meetings of the Independent were posted in the plant. In addition, the respondent's officials took an active part in coercing employees to become members of the Independent.

Sherman Ebbert, a member of the Union who returned to work on July 12, testified that on that day, Ralph Ebberly, a head loader, approached him during working hours and asked him to sign a membership card in the Independ-

ent. "He said 'it was all right, because it was a union amongst the employees, only it was to keep out any other outside union, and I asked him if it was compulsory and he said yes it is. He said 'If you do not join it, we will throw you over the fence'." Ebbert promised to give Ebberly an answer later. On the next day, during working hours, Ebberly again asked Ebbert to join the Independent. When Ebbert refused, Ebberly summoned a crowd of 15 or 20 men, including Paul Hoffman, one of the committee of 27, who told Ebbert that unless he joined the Independent, they would refuse to work with him. Ebbert then went to see Peppard, general superintendent of the billet department. "He (Peppard) said 'I understand you are having some trouble with the boys.' And I said 'They claim they will not work with me unless I join their union.' And he asked me why I did not want to join . . . . 'Well,' he said, 'the boys said they won't work with you unless you sign the union card. . . . By God, we are going to work around here and I ain't going to let no man hold up the work. . . . Now you can go home and think it over. When you decide to do what the boys want you to do, you can come back and go to work'." As Ebbert was leaving the plant Peppard sent for him, told him that he had straightened the matter out for the time being, and said that he might return to work. Later in the evening, Ebberly called Ebbert away from his work and announced that "the boys have decided they don't want you to come out to work tomorrow." When Ebbert replied that he had been told by Peppard to return to work, Ebberly said "You will have to fight it out with the boys then." As a result, Ebbert signed a membership card in the Independent. On August 6, however, he voluntarily left the plant because he "didn't like the way they was pushing things around there."

George Allen, a crane man employed by the respondent

for 12 years and a member of the Union, who returned to work on July 8, testified that one afternoon during the second week of his return. Thomas Burkhart, treasurer of the Independent, asked him to sign a membership card in the Independent. On the next afternoon, when Allen stated that he had not yet made up his mind, Burkhart said, "If you do not sign this card, the men are going to refuse to work with you and the foreman is not going to do anything about it." Later, Don Lyman, a motor inspector, from whom Allen took orders, advised Allen to sign the membership card in the Independent within the next 2 or 3 days if he wanted to keep his job. On July 27 a committee, consisting of two motor inspectors and 11 or 12 other employees, none of whom worked with Allen, presented him with an ultimatum, "You are either going to sign this card and line up with us or you are going to get out on a picket line with the C. I. O." When Allen refused to sign, the 15 took a vote on the question of whether or not they wanted him to work. John Irwin, a steel foreman, announced the results of the ballot as 12 to 3 in favor of Allen's not working. Another man was assigned to Allen's crane. Allen then appealed to Andrew Evans, superintendent of the hot mill, who sent him to several other supervisory employees. Finally, Allen spoke to Jim Kelvey, head foreman over the electricians, and told Kelvey that the men had taken his job because he would not sign a membership card in the Independent. Kelvey replied "I can't do anything about that .... I give you a quit slip if you want to quit." Allen replied that he did not want to quit, that the men had taken his job and put another man on it. Kelvey promised to investigate the matter within the next few days. At the hearing on August 12, Allen testified that he had not yet heard from Kelvey.

The record is plain that, except in name, the Independ-

ent was identical with the Plan and the Association. It was formed, at least ostensibly, by the Chairman of the Plan and the President of the Association. The leading figures were Employee Representatives under the Plan and the Association. It met to adopt its constitution at the call of the chairman of the Central Council of Employee Representatives of the Plan. It replaced the Association, which disappeared upon its advent, and occupied the same place in the respondent's plant as its predecessors. As Linckenhely himself testified:

> "The men wanted it (the Association) abolished on account of the name. . . . That is the only reason we changed the name and formed a new one."

Like its predecessors the Independent was dominated and controlled throughout by the respondent. It was formed on the respondent's property, received the respondent's favors, grew through the respondent's coercion. Further, even aside from actual interference by the respondent with the Independent itself, the Independent could not, in view of the circumstances under which it arose, be considered free from the respondent's influence and control. The leading figures in the Independent were a group of employees plainly under the respondent's domination and known by the employees to be so dominated. The successor to the Plan and the Association could not, by mere change in name, be freed from the effects of the respondent's previous actions. In addition, the Independent was established under other conditions of flagrant interference with the rights of self-organization, described hereafter. Such an organization, formed in such an atmosphere, could not be considered to represent the free choice of the respondent's employees.

Upon the basis of the entire record we find that the respondent has dominated and interfered with the formation and administration of the Plan of Employee Represen-

tation at the Massillon plant and of its successors, the Employees' Representative Association and the Independent Association of Republic Employees, and has contributed financial and other support to them.

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2. *The discharge of Peter Mouyios*

On May 3, 1937, during working hours, Employee Representative "Happy" North approached Peter Mouyios, a chipper in the billet department, and asked him what union he wished to represent him. When Mouyios replied that he did not wish to be represented by any union, North said, "Well, I got a card here I am going to fill out for you." Despite Mouyios' insistence that he would not sign or accept the card, North filled it out, signed Mouyios' name, detached the stub, and left it with a fellow employee, from whom Mouyios retrieved it before the hearing. The card, which is in evidence, is an acceptance of membership in the Association. A comparison of Mouyios' signature written at the hearing with his purported signature on the card leaves no doubt that Mouyios' purported signature is not genuine. Mouyios testified that this entire incident took place in the presence of foreman Lefty Hilbert, that an hour and a half later, Hilbert came to where Mouyios was working and told him to go to see Peppard, and that Peppard then laid him off. When Mouyios protested that there were many men in the billet shed with less seniority who were not being laid off and offered to point out such men, Peppard looked at a little book and replied, "Well, I cannot help that."

The respondent contends that Mouyios was laid off, in the regular order of seniority, because of a general reduction in force of approximately 180 chippers. With this contention we cannot agree. Foreman Hilbert testified that he had submitted to Peppard a complaint from Mouyios that two men with less seniority had been retained and

Peppard had shown him a service record, according to which it appeared that both men had been hired before Mouyios. Hilbert stated that the chippers had been laid off, on the basis of a list in Peppard's office, starting from the bottom of the list, but that he did not know whether or not the chippers at the bottom of the list were junior in seniority to the rest, and did not know of his own knowledge whether seniority had been followed. Similarly, Lauriston Miller, a general foreman in the billet and finishing department, testified that he was given a list by Peppard of chippers to be laid off, but did not know whether or not the seniority rule had been violated. It thus appears that Peppard was the only person whose testimony would rebut that of Mouyios. The respondent, however, did not call Peppard as a witness and made no showing as to his unavailability. Although Mouyios did not become a member of the Union until a week after his lay-off, we think it clear that the real reason for his lay-off was his refusal to join the Association.[15]

We find that the respondent has discriminated against Peter Mouyios in regard to hire and tenure of employment, thereby discouraging membership in the Union and encouraging membership in the Association.

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3. *Background of the strike; the lock-out at the Massillon Works*

In this atmosphere of company unionism and hostility to outside unions, the S. W. O. C. in June 1936 began its campaign to organize the employees of the respondent. Headquarters were established in Canton, approximately

15. At the time of his lay-off, Mouyios was earning 62½ cents an hour, plus a bonus, which brought his hourly rate to approximately 72 cents an hour, and had been working 3 or 4 hours a day for 5 days a week. Since May 3 he has not earned any money.

eight miles from Massillon, and organizers were sent out to obtain members among the employees in the Canton-Massillon area.[16]

On July 2, 1936, the respondent issued the following notice:

> "Republic Steel Corporation and Subsidiaries
> "General Offices Republic Building, Cleveland, Ohio
>
> "TO OUR EMPLOYEES:
>
> "We are making the following statement so that you will know the attitude of Republic toward the recently announced campaign for unionization of the steel workers.
>
> "The leader of this drive is John L. Lewis, head of the Coal Miners' Union. He is not connected with the steel industry. He has enlisted the help of other organizations not connected with the steel industry . . . Representatives of radical and communistic groups are helping in this movement. William Z. Foster, chairman of the Communist Party, has announced his support. Foster was the leader in the unsuccessful attempt to unionize the steel industry in 1919.
>
> "WHAT DO THEY WANT?
>
> "John Lewis and his organization want more workers to *pay them more dues* . . . If they could organize the steel workers they hope to collect $5,000,000 a year from them. Republic employees alone would pay over half a million dollars. Furthermore, they could place dues and assessments at any figure they liked and steel workers would have to pay them.
>
> "The real aim of the present organization drive is

16. The Canton and Massillon Works are apparently classified by the respondent for administrative purposes as one region, the Central Alloy District, which is under the supervision of a single District Manager.

to establish a closed shop. They want to force you into the union and make you pay for the right to work. Under a 'Closed Shop' every man has to pay his dues to the union whether he wants to or not. If he gets behind in his dues, they can throw him out of the union. By this threat they can keep the dues rolling in.

"One of the announced purposes of this drive is to throw out your Employee Representatives whom you have elected for collective bargaining with the management. The union wants to destroy all Employee Representation Plans in the steel industry.

"Your Employee Representation Plan is not run by outsiders. It works. Under your plan, you select your own Employee Representatives—men you know and with whom you work. Under a union you would be represented by outsiders who may know little or nothing about your problems, your management, or the steel industry. Furthermore, you would have no choice in their selection. You would have to accept any bargain they made for you. You would have to pay money to be dictated to by somebody you did not even know.

"WHAT ARE THEIR METHODS?

"The methods customarily used by professional union agitators and organizers are force, coercion, and intimidation of workers and their families. They threaten to call a strike to force men to join their union. They try to force mills to stop operation and keep men from their work for months at a time. They do this to scare men into their union whom they know do not want to join the union.

"WHAT IS REPUBLIC'S STAND?

"Republic stands for the 'Open Shop' principle.

"No employee has to join any organization to

get or hold a job.

"Advancement depends on individual merit and effort.

"Republic will not permit any activities within its plant which will:

1. Interfere with the orderly conduct of its operations.

2. Stir up strife or discontent.

3. Threaten the peace and comfort of its workers and their families.

"Every Republic employee owes a duty of loyalty to the Company so that its best interests may be served. Conduct detrimental to the interests of the Company and which may disrupt the satisfactory relations between employees and management will not be tolerated.

(s) T. M. Girdler
Chairman and President

R. J. Wysor
Executive Vice President and
General Manager

C. M. White
Vice President in Charge of
Operations

H. B. Carpenter
District Manager."[17]

With this statement of the respondent's policy as a guide, we turn to the history of the union's attempt to organize the employees at Massillon.

17. Italics supplied.

From the outset, the organizers were followed and spied upon by paid agents of the respondent. Howard Porter and Guy L. Sweeney, S. W. O. C. organizers, testified that men in old clothes and with a one or two day growth of beard, whom they had previously seen in the uniform of company police at the Union Drawn Steel Company, trailed them almost every day for three or four months in all their organizing trips in Canton, Massillon, and even to Louisville and Navarre, Ohio, towns located several miles from Massillon. Among the automobiles driven by these men, the organizers recognized one, a Ford coupe bearing the 1936 Ohio license number E-12, usually driven by the same two men, which invariably followed them. These men made no attempt to conceal their activities. They took rooms in the Northern Hotel in Canton on the fifth floor below the rooms occupied by Sweeney and Porter.

"Every time an organizer would step out of the hotel . . . this same car E-12 would be following us. . . . There was always two, it was a coupe, 1935 Ford coupe. . . .

"Q. (by Mr. Lauter) They would always follow you in an automobile?

"A. No, at times when we would leave the hotel and go out to breakfast, lunch, or dinner, if we were walking, or making a contact, they would always follow us there walking, because they always parked across from the hotel. . . . I have had them follow me into the restaurant, back to the hotel, on the elevator, upstairs and back down again. . . . They would follow me around in Massillon in making contacts. In other words, they would watch me, so that I would not get to see any steel workers because I did not want to get any steel worker in trouble."

On one occasion, after a midnight meeting in a public park of the employees of the 18-inch bar mill of the Massillon Works, these same two men followed one Laughlin, an employee of the respondent who had expressed interest in S. W. O. C., to his home, and for several days afterward were seen parked there for hours at a time. On another occasion, these men, accompanied by 15 or 20 others, followed several S. W. O. C. organizers to a fish fry at Eagles' Hall in Massillon given by the employees of Union Drawn Steel Company, and succeeded in staying so close to the organizers that they had no opportunity to speak to any of the employees there. On a third occasion, Porter and Sweeney were followed by the men driving the Ford coupe with the license number E-12 to Louisville, Ohio, where they had gone to visit a prospective member. A black sedan with five men cut in ahead of them, half blocking the road; the Ford coupe stopped directly behind them. The organizers escaped from this *cul de sac* but were prevented from visiting their prospective member.

The activitites of these men were reported to Sheriff Nist of Stark County, who informed the organizers that if the car followed them out of Massillon into Stark County again, he would arrest its occupants. On September 23, the two men driving the car with the license number E-12 followed Porter out of Massillon to Navarre, where he stopped at a filling station and telephoned to the Sheriff's office. In a few moments several deputy sheriffs in a cruiser car drove up, apprehended the two men, and took them to the County Jail, where they gave their names as Long and McCallister, stated that they were plant policemen at the Union Drawn Mill in Massillon and informed Deputy Sheriff Koellner that they "had business following this car, that it was special work assigned to them as policemen at the Republic Steel Corporation". Porter sought to press charges against them, but was informed by the

District Attorney at Canton that there was no law prohibiting such activities. The men then signed waivers, releasing the Sheriff from liability, and left. To all of this testimony, the respondent offered no evidence in rebuttal.

As a result of the respondent's known hostility to the S. W. O. C. and the constant and unconcealed shadowing of union organizers by the respondent's paid agents, the employees were afraid to be seen in the company of the organizers or even to permit them in their homes. At first, therefore, meetings were secretly held "out of town after night, out in corn fields, in parks, and different places where we thought nobody was watching us." Later, however, as more of the employees joined the S. W. O. C., meetings were held in the open; the membership grew; inroads were made even among the Employee Representatives. In December, 1936, New Deal Lodge No. 1124 was chartered by the S. W. O. C.

While the respondent's police were thus engaged in shadowing union organizers, the respondent's foremen and supervisory officials were endeavoring by other means to combat the growth of union sentiment. Thomas Pastorius, an employee who had been approached to join the S. W. O. C., told Kenneth Poorman, a volunteer organizer for the S. W. O. C., "I am a foreman now, and as a foreman I am supposed to quash all talk of organization in the shop." Another employee was forewarned by a superintendent to expect the visit of organizers and "watch his foot". Joe Morton, a member of the S. W. O. C., testified that foremen David Lewis and Hayden Bright repeatedly warned him not to talk union to his fellow employees and stated that it was part of their jobs to break up this C. I. O. movement in the plant. Russell Eckroad, rougher in the hot mills, testified that the same David Lewis, after in-

forming him that "Girdler will never sign a contract with the C. I. O.", mentioned something that had happened "up town" at the union hall. When Eckroad asked, "How do you know that?" Lewis replied, "That is all right how I know that. . . . We know things down here 10 minutes after they happen up town, no matter where it is."

In September 1936 Alvin Smith, general superintendent of the sheet mill, sent for Elmer Jordan, a helper in the sheet inspection department, and asked him what connections he had with the C. I. O. and John L. Lewis. Although Jordan was then a member of the S. W. O. C., he disclaimed any knowledge of the C. I. O., fearing that such an admission would result in his discharge. Smith then proceeded to lecture Jordan as follows:

> "'Mr. Jordan, you know as well as I that the steel industry cannot be organized.' He said, 'The Republic Steel Corporation has too much money for a thing like that to come in here.' He said 'you might organize the brick layers and carpenters, they are just a handful of men, but you will never touch Republic Steel. You know what happened down here a few years ago to the men who took an active part in the organization.[18] They lost their jobs. I think the best thing for you to do is lay off'."

Several weeks later Jordan was again summoned to Smith's office, where Smith informed him that his work was becoming unsatisfactory.

> "He said, 'You are not on the job. . . . Your foreman is complaining about your not working right, talking to the men too much.' He said, 'You are going

18. In May 1935, the Amalgamated Association of Iron, Steel and Tin Workers of North America, called a strike at the plant of the Berger Manufacturing Company, a wholly owned subsidiary of the respondent, in Canton, Ohio.

to leave the C. I. O. alone or you are not going to have a job here.' 'In other words,' he said, 'if they did, if they asked for recognition, we will shut this plant down, because we are operating now at cost'."

Jordan testified that Smith again called him to his office in February 1937 and said:

"'I see that you did not listen to me when I told you before.' I said, 'I do not know what you are talking about.' He said, 'Well, I see you are one of the active men in the C. I. O. and you have guts enough to go in part of the mill and pass out papers and then come in and take your job.' 'I do, I absolutely have,' I said, 'I did not get paid for it. I am doing it for the benefit of the men in this plant.' He said, 'This plant is going to be shut down. The orders are getting low. We are going to shut this plant down. It seems you are all going to be out of a job.' He said, 'Mr. Chase (assistant superintendent) thinks a lot of you. We were talking here the other day and we were figuring on putting you on an inspection job which you are entitled to.' He said, 'If you keep this thing up that you are doing now, I cannot give you a job'."

On March 17, 1937, there occurred an event of historic importance in the steel industry: representatives of the Carnegie-Illinois Steel Company, and other subsidiaries of the United States Steel Corporation, met, bargained collectively, and signed a contract with the S. W. O. C., covering wages, hours, and working conditions, and recognizing the S. W. O. C. as the representative of its members who were employees of those companies. On the day following the signing of this contract, the respondent called a special meeting at its Cleveland offices of "the Joint Committee of the Representatives of the Northern Steel Plants and the

Subsidiaries."[19] The minutes of this meeting, mimeographed and paid for by the respondent, and distributed to the Employee Representatives, read in part as follows:

> "Mr. White (respondent's vice president in charge of operations) addressed the conference and discussed Corporation labor relations with the Representatives.
>
> "Mr. Voss, Director of Industrial Relations, explained all about collective bargaining with the representatives of any group within the employ of our Corporation.
>
> • • • • • • •
>
> "The Joint Session showed the efforts of our different units in combating the encroachment of outside groups. The Buffalo and Cleveland Units have a Security League. This league has members avowed to support and help sustain all the activities in connection with the Republic Steel Representation Plan.
>
> "*At this point, a motion was made and seconded that all the representatives of both the Steel and Subsidiaries back the Management in opposition to all outside labor organizations. This motion was carried unanimously.*
>
> "Another motion was made and seconded that each General Body within the Corporation develop methods best suited to their locality in fighting any coercion or intimidation in connection with labor organization. It was, also, suggested that each unit (Steel or Subsidiary) offer to each other the procedure or systems used in their localities to offset any efforts of outside groups.

19. This "Joint Committee" meeting appears to have been a meeting of the Central Council.

> "Before adjournment, an exchange of thanks between Management and Representatives developed. A very fine spirit of cooperation was manifested by both to carry on under our present set up."[20]

The results of this program of opposition to outside unions appeared almost immediately in those plants of the respondent involved in this proceeding. At Massillon, foremen and Employee Representatives distributed petitions among the employees during working hours, stating, "We, the undersigned, are satisfied with our present Plan and do not want interference from the outside C. I. O." In the hot mill Employee Representatives circulated a petition reading, "We, the undersigned, are satisfied with the Representation Plan and the wages, hours and conditions of the mill." At first only two or three of the 60 to 65 men in the department signed it. The Employee Representatives then sent for foreman Lewis, who asked:

> "What is the matter with you fellows, you do not want to sign this petition. Everybody up above has signed it. . . . Should I bring it down again? . . . If you boys don't sign this, the result of it will be that we won't work very long . . . if we don't sign this thing up and straighten it out like all the rest of the plants are doing, that when the company man went out on the road at the end of the month, he did not know whether he would get us any more orders or not."

When Lewis returned with the petition, the men signed it.

At about the same time, the chippers in the billet department were told by their foremen to lay down their tools and report in groups of ten at a time to general superintendent Peppard's office. There the chippers were met by Employee Representatives, who copied their badge num-

20. Italics supplied.

bers on a slip of paper and informed them, "We called you boys in here to sign, so that with your signatures fixed opposite your badge number that you are satisfied with the kind of employees' representation we got, this kind in the plant." Peter Demos, an employee, testified that he signed the petition under protest, because, had he refused, his badge number would have remained on the paper without his signature, thus indicating his refusal to sign. A number of the chippers were apparently unable to read English. Employee Representative Pappas, without reading the petition aloud, explained it to them in Greek. A week or two later, Demos testified, "we saw in the local papers a news item that the employees of the Republic Steel Corporation, Massillon, rejected the C. I. O. and copies of this . . . petition were sent to the local authorities and to the state authorities to show that the employees were satisfied with the Representation Plan and they did not desire any outside interference from an outside union."

During March, Alvin Smth, general superintendent of the sheet mill, called special meetings of the employees in several departments and threatened them with the loss of their jobs if the respondent were forced to recognize the C. I. O. Joe Morton, a catcher in the hot mill, testified that at a meeting in the Truck Garage of the Massillon Works, Smith stated "that he didn't want any of the members there to join the C. I. O., or to join any outside organization, that the Employees' Representation Plan had been very successful there, and that we had gotten our recent wage increases through the Employees' Representative Plan and that if the C. I. O. had to be recognized by the Republic Steel they would close down before they would recognize the C. I. O. The high cost of operating under a union contract would not let them work. He also stated that he would hate like hell to see grass growing in the streets of Massillon." Elmer Jordan, a helper in the sheet inspec-

tion department, testified that at another meeting in the Truck Garage, Smith "got up on a box . . . and he had a C. I. O. membership card, and he read this card off that I accept membership in the Amalgamated Association. 'Now,' he said, 'boys, I want to tell you one thing, the coal miners, the Mine Workers of America, they will assess them five or ten dollars and take everything out of their pay that they want. That is what will happen to you. They are a bunch of grafters, communists, and they are reds. . . . The first thing you can do if you want to hold your job is lay off of this organization. . . . In other words, this company has been running in the red for the last three years merely making expenses. . . . Up in Monroe, Michigan, that plant they took over . . . can operate iron for half the costs they operate it here and save shipping costs.' "

Although the respondent did not call Superintendent Smith as a witness, it sought through the testimony of others present at these meetings to rebut certain portions of both Jordan's and Morton's testimony. On the whole record, however, we are inclined to believe that Superintendent Smith made the statements reported by Jordan and Morton. Other testimony that Smith made statements of a similar character on other occasions stands entirely uncontradicted. Moreover, the respondent neither called Smith as a witness nor made any showing as to his unavailability. Even from the testimony of the respondent's witnesses, it is apparent that Smith mentioned the possibility that the mill would lose orders and warned the men not to join anything of any kind. Further, at approximately the same time, the respondent's District Managers in other plants were reiterating to meetings of Employee Representatives the respondent's announcement of policy made on July 2, 1936, that the Communist party was supporting the C. I. O., that John L. Lewis, President of the United Mine Workers, wanted to organize steel workers for the

money involved, that the respondent stood for the open shop principle, was in favor of the Plan, and would not tolerate conduct which would disrupt what the respondent considered to be the satisfactory relations between the employees and the management. It would be curious, indeed, if the supervisory officials of the respondent explained the respondent's policy in a substantially different way from that in which the respondent's president had stated it.

Shortly after these meetings and within a fortnight after the signing of the Carnegie-Illinois agreement, the union for the first time approached the respondent with a proposal for collective bargaining. On March 30, Clinton W. Golden, Regional Director of the S. W. O. C. for the Northeastern Region, wrote to Girdler, requesting a convenient date for a conference and enclosing a copy of a proposed agreement, identical in its principal terms with the Carnegie-Illinois agreement. The respondent did not reply.

On May 3, Golden addressed the following telegram to the respondent:

> "On March 30, 1937 we sent you standard collective bargaining contract with request for conference to discuss same stop No acknowledgment or other reply received to date stop Wide spread unrest among employees your company various mills prevails over uncertainty your position regarding signed collective bargaining contract stop This unrest accentuated result lay off several hundred union members your Canton and Massillon Works stop Unless we can have definite assurance from you with date for conference to negotiate written contract without further delay we shall be obliged disavow all responsibility union members in your mills remaining at work."

On May 5, J. A. Voss, Director of Industrial Relations, replied:

"Your request for a meeting to discuss signed contract has been referred to me for reply. In view of Wagner Act see no necessity for signed contract. The policy of this company has been and is now that it is willing to meet with anyone to bargain with him for whomsoever he represents. In conformity with this general policy the proper representatives of this company will met with you at any time mutually convenient for collective bargaining purposes. Advise if Tuesday, May eleventh my office Cleveland satisfactory for meeting."

On the following day, Golden wired back:

"Your wire fifth received stop Are we to understand you propose in lieu of signed collective bargaining contract that contracting parties commit provisions verbally agreed upon to memory and rely thereon for future reference whenever conferences are necessary to discuss grievances that may arise thereunder stop Do you further propose that management officials in the thirty-five mills operated by your company and union grievance committeemen numbering two hundred as well as the sixty thousand employees also indulge in this memorizing process stop Is this your conception of orderly constructive methods of collective bargaining as contemplated by National Labor Relations Act stop If so we consider conference you propose for May 11 futile waste of time and energy stop Do you propose to accept terms similar to those in agreement signed by Carnegie Illinois Steel Corporation and approximately one hundred other companies with representatives of Steel Workers Organizing Committee without

undertaking to affix your Company signature thereto stop."

A conference, nevertheless, was held between representatives of the S. W. O. C. and of the respondent in Cleveland on May 11. On the same day, the respondent issued the following statement:

"TO OUR EMPLOYEES:

"The following statement is being made so that you will know the attitude of Republic Steel Corporation toward the effort of the Committee for Industrial Organization (C. I. O.) to force the company to sign their union contract. In its effort to secure such contract, C. I. O. has threatened to call a strike.

"You have a vital interest in this situation. It involves your right to work in peace and to support your family in comfort. We are not convinced that the C. I. O. contract is for the best interests of the employees or the Company. . . . "

After summarizing the letter of March 30, addressed by Golden to the respondent, and the telegrams of May 3, 5, and 6, the statement continued:

"The C. I. O. made no complaints (at the meeting on May 11) relative to wages or hours of Republic employees. In spite of this, the Union demanded that the Company sign their Contract.

"This is the only matter at issue and the Company at the May 11 meeting informed the C. I. O. representatives that it still believes it inadvisable to sign such contract from the standpoint of the employees and of the Company itself.

"Among the reasons for this decision are:

"1. Thousands of our employees, through their representatives, have protested against the signing of any agreement by the Company with the C. I. O. The employees of Republic now have a successful Plan for collective bargaining in which plan a large majority of the employees participate.

"2. A study of the proposed contract wages, bonus, safety provisions, seniority rules and methods of handling grievances specified in the proposed contract are no more favorable than those now enjoyed by you.

"3. Both parties to a contract should be responsible. Republic is held by law responsible for acts of its officials. C. I. O. does not assume the same kind and measure of responsibility.

"4. The policy of Republic Steel Corporation is that NO EMPLOYEE HAS TO JOIN A UNION TO GET OR HOLD A JOB. Although the proposed agreement by its language does not disclose the ultimate objective of a closed shop, C. I. O. organizers have stated that the signing of the Carnegie-Illinois agreement 'will result in the complete unionization of the entire industry.' Republic does not believe in the closed shop principle.

"5. The signing of a C. I. O. union contract would be unfair to the workers who do not favor the Union as their collective bargaining agency and to those who prefer to deal for themselves individually with the Company. Coercion would be used by the Union in an attempt to force these workers into the Union against their wishes causing them to surrender, for all practical purposes, their rights to deal with the Company except through the C. I. O. on such vital questions as wages, hours, and working conditions.

"6. Such a step would disturb the present harmonious relations with our men and break down the mutual confidence which has existed in collective bargaining matters between the workers and management.

"7. The signing of C. I. O. contracts in other industries has not resulted in industrial peace. Notwithstanding signed agreements, sit-down strikes and other interruptions of work have occurred in the automotive and other industries.

"The policy of this company has been, and is now that it is willing to meet with any one to bargain with him for whomsoever he represents.

"Republic believes that every employee is entitled to determine for himself, free from discrimination, interference, restraint, coercion and intimidation by anyone, whom he wishes to represent him in the matter of collective bargaining. In view of the foregoing facts and because of the Wagner Act and recent decisions of the United States Supreme Court, Republic Steel Corporation sees no necessity for signing the C. I. O. contract.

"The Company is willing to bargain collectively with its employees as in the past. MEMBERSHIP OR NON MEMBERSHIP IN ANY ORGANIZATION IS NOT A REQUIREMENT OF EMPLOYMENT."

On the night of the conference, the Association held a mass meeting in the Main Office Auditorium of the Massillon Works. Employees on duty during this time were paid their regular wages by the respondent for attending, and a total of approximately 2,000 were present. Nick Linckenhely, the principal speaker, addressed the meeting over a loud-speaker system; his main topic was "that the Employees Representation Plan had been so good, so success-

ful in cooperating with the employees in the company in getting the present wage increases . . . that the C. I. O. was not a fit organization to belong to, that if the Republic Steel was forced to recognize the C. I. O., they would have to close down the plant, on account of the high cost of operation, and that being an old mill, Massillon would be without the Republic Steel."

Despite the respondent's pressure upon its employees to force them into the Association, however, that organization, on its own estimate, was never able to obtain more than 1,100 applications for membership out of over 3,000 employees. As a method of organizing opposition to the Union the Association was a failure.

The respondent, therefore, resorted to a more direct method of attack. On May 20 it shut down all the mills of any consequence in the Massillon Works, with the exception of the blooming mill, and locked out its employees. The respondent contends that the shut-down and lock-out were not aimed at the Union, but were caused by an emergency in the main turbo-generator unit which generates power for the use of the mills. T. J. Ess, a combustion engineer employed by the respondent, testified that at about 7 p. m. on the night of May 20 he received a call from the plant that there was trouble with the turbo-generator unit, that he went to the powerhouse, saw the machine vibrating very badly, and after consultation decided that it was necessary to shut down certain units of the plant. At 10:45 p. m. power was switched off from the sheet mills, the 12 and 18-inch mills, and the hot strip mill—all the mills, as Ess testified, of any consequence in the Massillon Works, except the blooming mill; and the mills remained shut for 3 days until May 23. The open hearth, and some of the minor auxiliary departments remained unaffected.

On cross-examination, however, Ess admitted that the

respondent maintained a connection in the plant with the power service of the Ohio Public Service Company in order to take care of such a break-down and that power to run the mills could have been obtained from that company without even pulling a switch. It is therefore apparent that even if there was a break-down in the turbo-generator unit, there was no emergency which compelled the respondent to shut down its mills.

On the other hand, the respondent had repeatedly threatened to close down the plant before it would grant recognition to the union. From November 1936 until a few days before the shut-down, in conversations, interviews, and meetings, Alvin Smith and Andrew Evans, superintendents in the sheet mill, and foreman David Lewis, had drummed into the ears of the employees that recognition of the C. I. O. would mean a shut-down of the plant. The chief selling point of the Association, as reiterated by the Employee Representatives to all comers, was—Join the Association or else—if Republic is forced to recognize the C. I. O., it will close down the plant.

Quite apart from these repeated threats and warnings, the uncontradicted testimony of Joe Morton, president of New Deal Lodge No. 1124, reveals the respondent's motive for the shut-down. On May 21 or 22 Morton met foreman Lewis on Main Street in Massillon:

> "Mr. Lewis said, 'I guess you will have enough of this strike when the company gets done with you.' I said, 'What do you mean "when the company gets done with me?" ' He says, 'When we get through starving you out.' 'Why,' he said 'you won't want to strike.' "

In the light of these facts and the respondent's failure to show any convincing business reason for its conduct, we are compelled to conclude that the respondent shut down

its mills and locked out its employees for the purpose of intimidating and coercing them not to join or to discontinue their membership in the Union. The respondent by the foregoing acts discriminated against its employees in regard to hire and tenure of employment thereby discouraging membership in a labor organization, and interfered with, restrained and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act.

To consider the lock-out, however, as merely one more instance of the respondent's hostility toward the Union would be to ignore the circumstances under which it occurred and the history of which it was a part. After the exchange of telegrams on May 6 and the break-down of negotiations on May 11 between the S. W. O. C. and the respondent, the situation in Massillon was rife with unrest. At this critical time, the respondent saw fit to carry into execution its repeated threats to close the plant if the C. I. O. asked for recognition. In the long history of the respondent's campaign to crush the Union, this was the final blow. Under these circumstances, the Union could not hope to preserve itself without immediate resort to action. At 11 p. m. on the night of May 25, pickets surrounded the plant and the strike began.

The respondent's activities after the lock-out leave no doubt that it expected the strike and made preparations to meet it. On the morning of May 25, Carl Myers, acting District Manager of the Canton and Massillon Works, called on Stanley W. Switter, Massillon's Chief of Police, told Switter that "they expected a strike at almost any time in the near future and wanted to know how the Police Department was able to handle the situation . . . how we stood and how many men we had. . . . " Later in the day, James A. Lewis, Service Manager of the Alloy Steel Division of the respondent, who had been in Detroit, Michigan, was informed by his office "that there was considerable talk about

a strike taking effect that night" and made arrangements to get back as quickly as possible by flying from Detroit to Akron, arriving in Massillon at about 8 p. m. C. W. Cravens, one of the respondent's salesmen, who remained in the District Office with 85 other employees, including three cooks and seven telephone operators from May 25, for 15 days and 16 nights, testified that he came back from Akron to go into the office because he had heard rumors that there was going to be a strike, and that on the night of May 25 there were a number of cots in the District Office and a food supply "more than enough for 15 days and 16 nights." Several foremen and employees who remained in the Massillon Works after the strike was called also testified that they slept on cots which were already there, or which were delivered to the plant on the night of May 25.

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4. *The Strike*

Between May 25 and July 1, 1937, when Governor Davey ordered the Ohio National Guard into Massillon, the Massillon Works and the plant of the Union Drawn Steel Company remained closed. During this period, in preparation for the reopening of the plants, the respondent was engaged in a campaign to conscript the Massillon police department to break the strike.

Certain obstacles appeared to block the easy accomplishment of this objective. The Massillon police department was small and poorly equipped for the respondent's purposes. Of a total of 18 regular police, only 13 were available for strike duty and the department lacked a supply of tear and vomiting gas and other equipment considered essential to break a strike. Furthermore, all the city officials—Mayor Krier, City Solicitor Hardman, Chief of Police Switter, and the City Council—were insistent not only that the city could not afford to hire special police

or buy extra equipment, but that the Massillon police must remain neutral and would not be used to break the picket lines. Finally, a large body of public opinion in Massillon supported both the strikers' cause and the attitude of the city officials.

The respondent began systematically to mobilize its forces and seek its allies to overcome these obstacles.

On May 26, the first day of the strike, a committee of six employees, met at Linckenhely's home and formed a Back-to-Work Committee. The members of this committee were either officers or Employee Representatives under the Plan and the Association.[21] During the strike other Employee Representatives and at least two foremen—Paul Rider, foreman in the billet shop, and "Chic" Immell, foreman in the blooming mill—joined the committee and took an active part in its work. Thus the Back-to-Work movement was organized by the very employees through whom the respondent had maintained its control over the Plan and the Association, and was assisted by the respondent's foremen.

On May 27 or 28, the Board of Directors of the Massillon Chamber of Commerce organized a temporary committee composed of businessmen and citizens of Massillon with the announced purpose of acting as a clearing house for information with regard to the various phases of the strike situation as it affected the business community in Massillon. This committee later developed into a broader organization which came to be known as the Citizen's Committee, the Citizen's League, the Labor Relations Committee, or more

21. Nick Linckenhely, chairman of the General Body of Employee Representatives under the Plan and president of the Association; N. C. Brown, secretary of the General Body of Employee Representatives under the Plan and secretary of the Association; Paul Hoffman, Employee Representative under the Plan and treasurer of the Association; Henry Gonder, Sam Schilling, Don Burkhart, identified by Linckenhely as Employee Representatives under the Plan and the Association.

commonly, the Law and Order League of Massillon. Its most active members were D. W. Case, secretary of the Massillon Chamber of Commerce, Jonathan Lester, president of the Massillon Rubber Company, and Glen Lanham, manager of the Erie Chevrolet Sales Company.

These two organizations formed the spearhead of the respondent's attack. For the first 2 or 3 weeks of the strike, as workingmen demanding only the right to work and as citizens interested in preserving law and order, they presented to the public an unimpeachable front. Thereafter, behind this front, the respondent proceeded to manipulate these groups for its own purposes.

On June 9, Glen Lanham of the Law and Order League went to Chief Switter's office with the message that Carl Myers and Gordon Hess, the respondent's assistant sales manager, wanted to see Switter in Canton. City Solicitor Hardman, Switter and Lanham then drove to the Hotel Onesto in Canton where Myers was confined to his room as a result of having been shot by one of his company guards. Myers immediately launched into an attack upon the Chief and the city officials. "He wanted to know what the hell was going on over there; were we going to allow the hoodlums to run things and why they cut the telephone wires and why the hell we didn't take action such as the Chicago police did and put them where they belonged . . . they knew how to handle the situation, if we did not, [22] and if we didn't

22. Myers was referring to the incident which occurred on May 30, 1937, in the vicinity of the respondent's plant in Chicago, Illinois, when the Chicago police dispersed a crowd of strikers and sympathizers, ten of whom were killed. See *The Chicago Memorial Day Incident*, Report (No. 46, Part 2) of the Committee on Education and Labor of the United States Senate, pursuant to S. Res. 266 (74th Congress), which makes the following findings with regard to this incident:

"We conclude that the consequences of the Memorial Day encounter were clearly avoidable by the police. The action of the responsible authorities in setting the seal of their approval upon the conduct of the police not only fails to place responsibility where responsibility properly belongs but will invite the repetition of similar incidents in the future."

wake up, we wouldn't need what police force we had, we wouldn't need a chief of police and we wouldn't need a city solicitor and we wouldn't even have a first class post office; that Massillon would be a junction if that mill shut down, which it looked as if it would with the wires cut and they would have to evacuate the office. . . . " Chief Switter replied that he had only 18 men and that "it was not our job (anyway), that we wasn't a strikebreaking outfit, and, furthermore, the mill was down in the country out of the city limits."

Hardman testified with regard to Myers' remarks as follows:

> "Mr. Myers began asking what the people of Massillon were doing about the strike, what the police department was able to do, and what the businessmen were doing about it, whether or not they were interested in keeping the steel plant there. And he went on to say that if the steel plant moved out that they would not need a chief of police and they would not need a mayor and would not need a city solicitor. . . . Mr. Myers pointed out what a fine job the Chicago police had done."

At Myers' request, Switter agreed to remove certain records and evacuate from the main office certain employees who had remained there since May 26. In the course of this discussion, Myers stated that there were some arms and ammunition in the main office, which could be locked up in the vault, but "they wouldn't do anybody any good there." He proposed, instead, to give them to Switter as a start toward some equipment to help the police department "in any situation which might arise." Upon Switter's acceptance of this offer, Myers dictated a letter to Raleigh Frank, authorizing Frank, who was in charge of the main office, to turn the arms and ammunitions over to the Chief. "If

you are going to turn this office over to Mr. Switter's protection," asked Lanham, "and moving out in the entirety, does that mean you are never going to open up this office in Massillon again and the plant in Massillon." "I did not say that" replied Myers, "I said that when enough men want to work in Massillon, we will open."

At 4 o'clock that afternoon, Switter placed the arms and ammunition with the office records in the trunk of a car, drove through the picket lines and delivered the trunk load to the respondent's agents. The arms and ammunition were not turned over to the Chief until later that evening. At 8 p. m., shortly after dark, pursuant to arrangements made with Frank, Switter drove to the Brookside Country Club, 4 miles north of Massillon, where Frank and Lieutenant Adler of the respondent's police force, under cover of darkness, transferred to Switter three shot guns, six combination shells, three gas guns, and about 90 gas projectiles.[23] The respondent's first objective was accom-

23. On June 1, 1937, Federal Laboratories, Pittsburgh, Pennsylvania, manufacturers of tear and vomiting gas, had shipped to the Union Drawn Steel Company at Massillon the following material:

3 1½" cal. riot guns	@	$60.00	$180
30 1½" cal. long range projectiles C. N. (tear gas)	@	7.50	225
90 1½ cal. long range projectiles D. M. (vomiting gas)	@	8.00	720
12 1½" cal. short range cartridges D. M.	@	6.00	72
40 Grenades, Jumbo Triple Chaser D. M. 116M	@	13.00	520
35 Grenades, Jumbo Spedeheat D. M. 113 M	@	12.00	420
1 Type "GB" gas mask			25.50
Total			2159.50
Less 10% on item No. 1		18.00	
Less 20% on items 2-3-4-5-6		391.40	
			409.40
			1750.10
10% excise tax on items 1-2-3 and 4			97.56
			1847.66

(Exhibit 1343-P, p. 5021, Volume 14, Hearings before the Subcommittee

plished: the Massillon police department was now adequately equipped.

On June 11, Carl Myers again summoned the city officials to the Hotel Onesto in Canton, to discuss the question of supplying food to 16 guards and 4 maintenance men that had remained in the plant. Myers told the city officials and R. R. France, Chief Deputy Sheriff of Stark County, whom Myers had invited to sit in at the conference, that "they had about four or five days supply of food in the plant, that it was up to Switter and France to get food into the men, that the maintenance men were keeping the coke ovens hot, that if that battery of coke ovens was ruined it would be goodbye for Massillon, that they wouldn't ever start that plant again." Switter promised to see what he could do about getting the food into the plant.

On the following day Myers called Switter on the telephone and angrily protested against an arrangement, to which Switter had agreed, by which one Marshall, a company official, was to enter the plant, accompanied by two pickets, to inspect certain insurance and relief records. After this telephone conversation, Switter informed D. W. Case that Myers was agitated by the refusal to the Union to permit Marshall to enter the plant without an escort of pickets. Case offered to have J. Lester of the Law and Order League telephone Myers and "stall him off for a few days until we know what we are going to do." Case then communicated with Lester, who telephoned to Canton and reported that Myers had "consented to give him (Switter) two or three days to get himself into position, he wanted to put himself (Myers) in shape to really take charge."

On the following afternoon, June 13, at Case's request, Switter attended a meeting of the Law and Order League

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of the Committee on Education and Labor, United States Senate, Seventy-fifth Congress, first session, pursuant to S. Res. 266.)

at the Chamber of Commerce. Switter was asked whether, if the money was raised, he would be willing to add the required number of police and purchase the extra equipment. Switter replied that he would not agree to this without the Mayor, but that if the Law and Order League would hold a further meeting, he would see to it that the Mayor was present. Switter testified, "They wanted to know how much it would cost to put on these police and how many we would need in order to maintain law and order and so on and how much equipment. They argued why the Mayor would not appoint the police and we threshed around for a couple of hours there and talked about the Monroe situation. . . . Monroe, Michigan. . . . They said they done a good job up there; they smashed the picket lines up there and they deputized enough police to do it . . . that turned out to be the main topic of conversation."

On the next morning, Mayor Krier, Switter, Hardman, and Snyder, the safety director of Massillon, attended the meeting of the Law and Order League at the Chamber of Commerce. Switter testified, "They put the heat on the Mayor about appointing some special police . . . they wanted to know why he would not appoint more police . . . and he argued that the city was broke and did not have the money to do it. And this group said they could raise the money . . . $8000 to pay for 50 policemen for two weeks and the equipment considered necessary for the department . . . and finally he agreed to appoint them (but) if he took on the 50 police that not one of them would go to the picket line. . . . (This) they did not like . . . so well." After this meeting the League, which had raised approximately $1200, returned the money to the businessmen who had donated it.

Later that afternoon, Mayor Krier, Hardman, and Switter called on Myers at the Hotel Onesto in Canton and informed him that they could not get the food into the

plant. Switter was the spokesman: "We told him we wasn't going to, that we wasn't bringing any food down to them or to the pickets, either . . . because we figured it was not our job; it was over in the county and it was not up to us to get food down to them. We decided we wasn't going to have nothing to do with it. . . . And then he (Myers) lit on us and told us that it was a funny thing that a little town like Monroe could build up a police department big enough to get their mill operating again and control the situation and it was damn funny we couldn't do something. . . . He said that Massillon would be a prairie and it wouldn't need a mayor or safety director or any of us . . . he said he would take care of it himself that he wouldn't let those people starve." Hardman's testimony confirms and amplifies that of Switter: "We talked about what it meant to Massillon, if Massillon would lose that plant, and there was danger of its being lost . . . he said that if the plant was lost, the people of Massillon and the officials would be responsible for losing it and he thought they were not taking any interest in it and in seeing that the plant was reopened." With this, the conference ended.

On June 15, the respondent issued and distributed to its employees a statement signed by Tom M. Girdler which, after reciting that many of its plants were reopening, added:

> "Movements similar to that which resulted in opening the Monroe plant are spreading rapidly in other affected communities. Employees kept from their jobs by mobs of armed pickets many of whom have never worked for Republic and citizens outraged by this defiance of law and decency by the C. I. O. are joining together to insist that law enforcement agencies compel the union to cease unlawful picketing.
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> * * * * * * * *
>
> So, when you get all through, the present controversy sums up somewhat like this:

[Blackface type] Must Republic and its men submit to the communistic dictates and terrorism of the C. I. O.?

[Blackface type] If America is to remain a free country the answer is NO."

After this statement, the Back-to-Work movement, which had hitherto been relatively inactive, began its work in earnest. At first, Linckenhely testified, the Employee Representatives, assisted by foremen Paul Rider and Chic Immell, merely circulated petitions from house to house, asking their fellow employees to return to work; then began "the big move." On June 20, Linckenhely and the other Employee Representatives called on the members of the Law and Order League at the Chamber of Commerce for their assistance, and "they all talked about the Back-to-Work movement and how to find a way and means of trying to get the men back to work." On the following day, June 21, led by Linckenhely, Fred Becker, a metallurgist in the employ of the respondent, and Foremen Rider and Immell, a crowd of approximately 300 men appeared at City Hall. "They stormed the City Hall," testified Switter, " . . . they demanded a meeting with the Mayor and I . . . they was all up in the air about wanting to go back to work and wanting me to give them protection . . . they demanded to know why I refused to accept this several thousand dollars that . . . the Law and Order League promised to raise . . . for the special police." A committee, with Linckenhely and Rider as spokesmen, then met in the Safety Director's office with the Mayor, Switter and Hardman. Switter urged the committee not to rush matters or to become so excited. He told them the money which the Law and Order League had promised had never been raised, and stated, in answer to their further questions, that he would refuse to accept it if it were raised again because he "was

not going to take on a gang of men to go down and break the picket lines," and that the picket lines were around the entrances to the plant beyond the jurisdiction of the city.

After similar remarks by the Mayor and Hardman, the city officials upon the demand of the committee addressed the rest of the group waiting in the lobby of City Hall. Switter told them "to hold themselves a few days to give the Mediation Board at Cleveland . . . appointed by the President of the United States . . . a chance to do something before they started any back-to-work movement, and I told them then and there that I wasn't going to take any fifty greenhorn men and go down to the picket line under no consideration."[24] The Mayor also referred to the President's Mediation Board, called upon the members of the group not to be hasty and stated that they were foolish to get excited, that the plants would probably open within a few days, and that there was no use in going down to the picket lines and having a battle and losing more time than they would lose by waiting. "Gentlemen," he said, "remember if we start such things it won't be one-sided,—there will be bloodshed on both sides. Be patient a few days. . . . We don't want any trouble or bloodshed down there."

On the afternoon of the meeting with the Back-to-Work Committee, the city officials drove to Canton to see Colonel Lawler, observer for the National Guard in the Massillon district, and, after discussing conditions in Canton, told him of the demands of the Law and Order League and the Back-to-Work movement and requested him to come to Massillon to observe the situation there. Lawler replied that he himself and other National Guard observers had been to Massillon and ridden around the picket lines and that from his

24. See *Report of the Federal Steel Mediation Board to Secretary of Labor Frances Perkins.*

observations, Massillon was in fine condition, everything was pretty peaceful, as peaceful as could be expected under strike conditions. Lawler and the city officials then discussed the activities of the pickets in carrying sticks and clubs, piling stones, and blocking roads. Lawler dismissed these activities as "technical" and stated that it would be impossible to argue over every little technical point of the law when an emergency such as a strike situation arose. He ended by complimenting the city officials very highly on the way in which they had been handling the situation, and stated that they had it well in hand.

The city officials then returned to Massillon to attend a meeting of the City Council, where Switter presented a request for additional police, on the ground that he was using some men in the strike zone that were needed in the city. The City Council rejected the request. "They was kind of cold on it," Switter testified. "We went into a meeting in the City Solicitor's office after the Council . . . a committee meeting. They told me not to get hot and bothered about it, it was down in the county, and it was up to the sheriff." "They immediately jumped us," Hardman added, "about not having the funds to spend, and they said there was no reason for the Chief to get all excited about it; to begin with the plant was in the county and it was up to the sheriff to do something about it."

Following the conference at City Hall on June 21, the Back-to-Work movement held a meeting, with about 450 present, at Willowdale, on June 22, and another meeting at Sippo Park with about 700 present, on June 23. Foremen Rider and Immell donated the use of their automobiles to assist Linckenhely and the other Employee Representatives and to transport employees to these meetings. At the Willowdale meeting, Linckenhely testified, Rider addressed the crowd and "talked in regards to the way they were kept out of the plant and that so many men came to him, wanted

to know if anything could be done about getting back to work . . . and spoke along the line (of) making arrangements to go back to work." At the Sippo Park meeting, Rider spoke "in regards to the same line of work . . . of trying to urge the men along that wanted to get back to work."

On the same day that Linckenhely had discussed "ways and means" at the Chamber of Commerce, the Law and Order League had retained Elson Wefler and Franklin Maier as its attorneys. On June 25 these two attorneys, with Case, Lester, and other members of the League, came to City Hall and presented to the city officials a petition signed by a number of civic organizations and leading citizens of Massillon. After the petition was read aloud, Maier delivered a speech about the break-down of law and order, demanded that the city appoint special police, citing its statutory authority to borrow money from banks for that purpose in an emergency, and accused the city officials of refusing to accept the money which the Law and Order League had raised. Maier also stated that Massillon was losing a pay roll of $40,000 a day and that "he had it straight that if something wasn't done the Republic was going to move their plant out of Massillon."

Switter retorted that there had been no break-down in law enforcement, that he had received a number of "cock and bull statements, the same as they did . . . of fellows being afraid to go home and being in fights, and being beaten up" but that only a few persons had signed affidavits and filed complaints, and that in every one of these cases an arrest had been made.[25] Switter further denied that the Law and Order League had ever raised any money for special police and called upon Case, who confirmed the

25. Switter testified that there had been fewer arrests during the strike than in normal times.

Chief's statement. When Hardman spoke, he deprecated the whole petition as "a grandstand play," defied the Law and Order League to prove its assertion that dynamite was being transported through the streets, and denied that the general safety of the city was in peril. Hardman added that the reference in Maier's speech to the loss by Massillon of $40,000 a day "smoked the situation out" and showed that the League was interested, not in law and order, but in protecting the businessmen.

Finally, Switter and Mayor Krier agreed to appoint some more men as special police and the Law and Order League agreed to assist them to borrow money for this purpose from banks in Massillon.

After the meeting, Switter, Case, and Hardman conducted two officers of the Ohio National Guard on a tour of the city to assist them in finding suitable quarters for the troops, if they were called in. The officers inspected a number of possible sites and finally selected an old lodging house owned by the city, which Case agreed to equip with refrigeration, gas, plumbing, and water connections, if it became necessary. Subsequently, such equipment was added, and the Chamber of Commerce received a bill for the cost, which at the time of the hearing it had not paid.

At about five-thirty that afternoon, Gordon Hess, the respondent's assistant sales manager, telephoned Switter at Switter's home that he had received information from the respondent's Canton office that between five and ten thousand Akron rubber workers and "Canton C. I. O.'s" were on their way to invade Massillon, and demanded to know what the Chief was going to do. After insisting that "it sounded like more bull we had heard about other invasions," Switter finally agreed to call out the police department. Hess stated that he "would have his gang over there to back (the Chief) up."

When Switter arrived at City Hall, he found a crowd of approximately 200, including Foreman Rider of the Back-to-Work movement and a number of the respondent's employees. Rider asked Switter to put in a three alarm signal for the American Legion. When Switter disclaimed any such authority Rider went to the fire chief, who sounded the signal. The crowd in the meantime was steadily growing, until it reached a total of several thousand persons in a high state of excitement. At 7 o'clock, when Hardman arrived, "the atmosphere was very tense . . . so tense that I did not park my car in the business district but drove it out in to the residential district so that if there was any trouble the car would not be damaged."

In the Chief's office, a crowd, including Hess, Rider, and J. Lester of the Law and Order League, had congregated. Lester asked the Chief if he wanted him to go home and get a shot gun. Hess "grabbed the telephone and called up the Canton office of the Republic Steel Company and wanted them to send somebody over to see the enthusiasm that Massillon was showing and what a crowd was backing up the Massillon gang to go back to work." After the call, Hess informed Switter that men from Republic Steel had already been over to see the crowd. Nevertheless Hess procured a newspaper reporter to take pictures of the crowd, telling Switter and Hardman that "it would be great to have a picture showing the enthusiasm of the group . . . so they could show the Republic Steel there was still some interest in Massillon and some life there . . . showing the Republic Company (that) Massillon wanted the steel mill there."

At about 10 o'clock the two National Guard officers who had been in Massillon earlier in the day came to City Hall and wanted to know the reason for such a crowd. When Switter informed them that a mass invasion of Mas-

sillon was threatened, they replied that their intelligence division could find no trace of any mass movement on Massillon and "for God's sake to break up that crowd before something happened." Switter then addressed the crowd, thanking them for being willing to back him up on any invasion of the city, and asked them to disperse. Several members of the American Legion approached Switter and Hardman after the meeting and wanted to know why and on whose authority they had been called out, and stated that they did not want to get mixed up in any strike controversy.

On June 27 or 28, Chief Switter asked the Civil Service Commission to certify to him a list of men eligible for appointment as special police. Of the seven certified, Switter chose six, rejecting the seventh because he was a former employee of the respondent, and choosing four other men of neutral feelings. The Massillon police force now had reached a total of 28.

On June 29 the Back-to-Work Committee, through the assistance of Case, obtained the use of a room on the ground floor of the Union Bank Building as a place where they could set up tables and register the number of employees who wished to return to work. On the following day the Back-to-Work movement began registration. When crowds formed and the police interfered, dispersing them, Linckenhely, Rider, and Case called upon Switter in protest. Case especially urged upon the Chief that a large majority of men, not concerned with the strike, wanted to put themselves on record as desiring to go back to work, "so that there could be some definite assurance given the Republic that if Republic wanted to open the plant, that it could be opened, there was men enough to operate." Switter informed them that he had no objection to their registering employees, but stated that he did not think it was a good idea to use the ground floor. Case then offered the Back-to-Work Committee the use of the offices and facilities of

the Chamber of Commerce on the eighth floor of the Ohio Merchants Bank Building, where registration continued from June 30 until July 3. Two full-page advertisements were published in the *Massillon Independent*, over the name of the Back-to-Work Committee, announcing the place and purpose of its work. By July 3, the respondent claimed, over 2200 employees had signed the above-described petitions.

This was "the big move" for which the Back-to-Work movement claimed credit. Linckenhely testified, however, that the Law and Order League had agreed to pay for $75,000 worth of insurance which was to have been taken out to cover property damage to the Union Bank Building; that the League had paid for the mimeographing of the petitions; that the League had furnished without charge all the desks and facilities for the registration of employees; and that the League had paid approximately $100 for the advertisements of the Back-to-Work Movement in the *Massillon Independent*, although by agreement between the *Independent* and the Law and Order League, nothing in the advertisements indicated that they had been paid for by the League.

Although the question of whether the Back-to-Work Movement represented a majority of the employees of the respondent's Massillon Works is not in issue in this proceeding, it is worth noting that among the alleged 2200 signatures are those of a large number of foremen, superintendents, and office workers, together with the signatures of a number of individuals who signed the petition more than once. Furthermore, the record is plain that supervisory officials of the respondent directly participated in circulating and obtaining signatures to this petition. Thus William Norris, a millwright leader, testified that his general foreman, one Shoemaker, telephoned him to go to the Chamber of Commerce and sign the Back-to-Work peti-

tion. Judson Moody testified that his foreman, Ray Henry, called at his house and asked him whether he had signed the Back-to-Work petition. Wilbur Larker, an office employee, testified that he signed the Back-to-Work petition while working in the temporary offices of the respondent in Canton, and that he saw other employees sign the petition there. Nick Linckenhely testified in detail concerning the activities of foremen Rider and Immell as members of the Back-to-Work committee. Switter testified that Gordon Hess referred to the Back-to-Work movement as his "gang" and sent them en masse to City Hall to back up the Chief on the fictitious invasion of Massillon.

Thus from beginning to end, the "big move" of the Back-to-Work Committee was in reality conducted from behind the scenes by the respondent and the Law and Order League. Like the discredited Employees' Representative Association, of which it was merely a continuation, the Back-to-Work Committee was the creature of the respondent.

In the meantime, on the night of July 1, Governor Davey had ordered General Marlin and four companies of the Ohio National Guard into Massillon. Despite previous arrangements to house the troops in the city lodging house, two companies were quartered in the main office of the Massillon Works and the other two in a school house overlooking the respondent's plant.

On July 2 the Massillon Works and the plant of the Union Drawn Steel Company reopened. On the same morning, at the request of Creighton, general manager of the Union Drawn Steel Company, Switter supplied city police in two cruising cars to escort the company guards and a quantity of arms, ammunition, and tear and vomiting gas, into the plant. One of the company guards furnished Officer Moore with a few gas candles or jumpers, which were

kept in the police cruiser car. Though the plants were open, the strike was still effective. The respondent was preparing for the day when arms and ammunition would be needed.

On July 2, 3, and 4, and thereafter upon the solicitation of superintendents and foremen, who telephoned to the men and visited them at their homes, a number of employees returned to work. Although the record does not indicate the exact number of this group, [26] it is evident that, even under the guns of the National Guard, in the fifth week of the strike, despite the campaign of the Law and Order League and the Back-to-Work Committee, and despite the continued solicitation of foremen and superintendents, a large number of men did not return to work but remained on strike.

On July 5, General Marlin called a meeting of the city officials, told them that the troops were not going to be there forever, and stated that if they wanted the steel mill in Massillon, they would have to be prepared to take over the situation when the troops left. The Massillon Works, he warned them, was the last plant to reopen, and if they did not keep it open they would lose it. Marlin suggested deputizing and arming a group of men from the respondent's plant to be known as "home guards" who on their own time would patrol their respective precincts after work. No definite plan, however, was agreed upon at this meeting.

On the next afternoon a delegation from the Law and Order League, the Back-to-Work Committee, and the respondent called upon the city officials at City Hall to urge upon the Chief the necessity of appointing special police and home guards. The composition of this delega-

26. There is some testimony that approximately 2000 employees returned to work. It is not clear whether this figure included the employees of the Union Drawn Steel Company.

tion reveals the close relationship between the organizations. Among those present were R. E. Peppard, superintendent of the billet shops, Perry Angstadt, the respondent's chief accountant, and one Blantz. These three men had been Company Representatives under the Plan. Case and Quigley were present on behalf of the Law and Order League. In addition there was also present Fred Becker, the metallurgist who had been a member of the Back-to-Work Committee since its inception. According to the testimony of Case, however, Becker, together with Peppard and Angstadt, represented the respondent.

Representatives of all three organizations joined in the discussion. Peppard, Angstadt, and Becker asked the Chief to select men from a list of names of 66 of the respondent's employees, which they submitted, to be appointed as special police to act under Switter's jurisdiction and to be paid by the city. Hardman and Switter examined this list, recognized the names of a number of men they knew, and rejected most of them as being too excitable to act as police officers during the strike emergency.

The delegation then requested that the Chief deputize a group of the respondent's employees as home guards and Peppard offered to furnish a further list of names. To this proposal both Switter and Hardman objected, as Case testified, on the ground that "it was probably undesirable to use anybody connected with Republic although they were men connected with the Back-to-Work movement. . . . Hardman said if they did anything like that they should put some C. I. O. men on." The delegation argued that Canton had deputized the respondent's employees as home guards and that Massillon should follow suit. To prove this, Angstadt telephoned the respondent's office in Canton and then informed the city officials that "the city solicitor of Canton was down in the plant then swearing them in." Hardman

and Switter, nevertheless, refused to accede to the delegation's request.

At this point there appears, most casually, upon the scene the principal character in the tragedy of bloodshed and violence that was to be enacted on the night of July 11. "During the meeting," testified Case, "Switter made the statement . . . of his inability to get any policemen who were competent and I made the suggestion to him. . . . 'How do you stand with Captain Curley or Major Curley?' He said 'All right.' 'Well,' I said, 'I understand from one or two talks I had with Major Curley that there is a method by which you could get the type of people and kind of people that you want and that perhaps he would advise with you on the method.' And he says, 'Where is Major Curley?' "

The testimony is in conflict as to whether Switter then sent for Curley, or whether Curley had already interviewed Switter earlier in the day without any previous communication from Switter. There is no dispute, however, as to the fact that Case suggested Curley to the Chief as the man who would solve the problem of increasing the Massillon police department, or that on July 6, Curley called upon Chief Switter and offered his assistance in helping to secure men for the police force.

Case described Curley as a disinterested, public-spirited citizen, "a former Army officer . . . who had organized two companies in Massillon . . . for the world war, a very competent man along the lines of developing organization, also, a very influential member of the . . . American Legion." To this description of himself, Curley added that he had served in the Spanish American War as a private, in the World War as a captain and major, and was now retired with the rank of major. A disingenuous witness, whose testimony in many respects is contradicted by the testimony of other wit-

nesses both for the Board and the respondent, and whose account of many of the events in which he participated is inherently improbable, he nevertheless furnished testimony which is indispensable to an understanding of the case.

On the evening of July 6, General Marlin, who had attended a meeting on the previous evening of the Law and Order League at J. Lester's home, called on Chief Switter. "He wanted to know why we were backing down and why we had not shown some signs of life in getting this group of . . . mill men they (Peppard, Angstadt, and Becker) certified to me . . . sworn in and getting ready to take over." Switter replied that he was "trying to get neutral men . . . and it was slow picking." "This is no time to pick up neutral men," Marlin answered, "you have to be ready to take this situation over. . . . I demand you have some plan to certify to me by tomorrow noon so I can report to the Governor." When Switter failed to agree with this, the General left in a huff.

Finally, on the following morning, the leading spirits in the Law and Order League descended upon the city officials. "They demanded we do something about this situation . . . why we had been passing the buck and why we refused to take the special police. They just climbed all over us and demanded some action be taken and threatened to impeach us, talked about getting rid of the Mayor. They talked about getting rid of the city solicitor and everybody else, and they wanted something done, wanted some action. . . . (They) said we could get plenty of men there. . . . Republic Steel men . . . and I told them that I didn't want those men, that if I was going to have any special police, I wanted to have men on neutral sides that had no argument in the strike."

"Q. (by Mr. Hunt) What was the reply?

A. They said the steel mill was at stake, the City

of Massillon was at stake, as far as industry goes, and we would lose the biggest of our industry.

Q. Did they ask you at this meeting if you would accept the assistance of Captain Curley in picking men to add to your police force?

A. Yes they said they knew where to get men and he could help pick the men.

Q. Did you finally agree to take the men right away?

A. No, it got pretty hot in there for the next hour or so.

Q. What do you mean it got pretty hot?

A. Why they were climbing on us to take on these men and wanting a showdown and wanting to know why and fighting with us and asking all kinds of things and saying all kinds of things against us, why we had done the way we did . . . and why we would not consent to it.

Q. Chief Switter, I have asked you so far merely a few questions about isolated meetings and conversations in the strike situation but weren't you subject to constant pressure throughout the day and night. . . . ?

A. I did, I worked sixteen, eighteen and twenty hours a day ever since the strike broke, and one time none of the department went home for four days and nights, four nights, only excepting a few hours sleep in the cruising car and I slept on the office floor and the whole department the same way, even the new rookies.

Q. So you were pretty tired at the meeting of this Law and Order Committee on July 7th?

A. We were pretty well pounded down by that time.

Q. By whom?

A. The law and order and the back-to-work movement.

Q. What did you finally tell the group that you would do about putting on these extra police?

A. I told them that was up to the Mayor and the chief executive of the city to make that decision and they got after the old boy pretty hot and he kind of weakened for the time being and asked me again what we should do. Then they jumped on me and I told them I would give them the works, I would give them what they wanted, I would appoint the whole damn outfit, give them all the guns they wanted and let them go to it, it is coming, and God damn let them have it. . . .

Q. You could see what was coming?

A. That there was going to be a battle and bloodshed all around as soon as they put guns in those rookies' hands and we had been fighting against bloodshed all the time."

With this agreement reached, the Law and Order League invited the city officials to attend a luncheon that noon to which Case, at Curley's request, had also invited a score of the managers of Massillon's leading industries. Case opened the business of the meeting by announcing that Major Curley had been designated by the Mayor and Chief Switter to make a statement to them about some cooperation that the city very badly needed at that time. Curley then addressed the meeting. He stated that he had consented to render such assistance as he could to the city for the purpose of developing a special police force, totaling 66 men, which would restore law and order in Massillon; that there were a number of men employed in industries who were not connected with the strike, who he felt would make good special policemen; and that if any of those present had any available men, "we would like to have

them sent to us immediately." After this a discussion arose about home guards. Curley stated that he "did not believe that was the need in Massillon, he believed that what they wanted was some special police here for the purpose, who would be deputized and be under the direction of the Chief."

The last speaker was Carl Myers. "He lit on the Mayor and the city solicitor and I," testified Switter, "with all fours. . . . He said he had not thought a hell of a lot of us until now and he thought we was beginning to get on the right track now and go along and do something." "He was glad to see the Mayor and Chief had wakened up . . . ," testified Hardman, "he roasted them pretty heavily . . . he felt they had not been doing their duty. . . . He said he loved Massillon and loved the Republic Steel Corporation. . . . He dwelt on the fact that the Mayor and Chief had not enforced the law, that they had been asleep and not doing their duty." "The only thing I ever recall," added Case, upon cross-examination, "that Mr. Meyers said at that meeting was somebody in the meeting insisted on the necessity of home guards, Mr. Meyers made the statement that he felt the whole matter could be safely left with Major Curley, if he didn't need home guards, that was all up to him, *the whole situation could rest with him, he felt.*"[27]

After this meeting, the Law and Order League, its work accomplished, took no further part in the events in Massillon. We pause for a moment at this point to reexamine the role of the Law and Order League and the respondent's relations to it.

Almost from the beginning of the strike, the respondent had made it clear to the businessmen and officials of Massillon that the retention of the Massillon Works, and the very existence of Massillon, depended directly upon their success in breaking the strike. Thus, on June 9, Carl

27. Italics supplied.

Myers had asked Lanham what the businessmen were doing about the strike, whether or not they were interested in keeping the steel plant there, and had threatened Lanham and the city officials that unless Massillon furnished the same kind of protection the Chicago police had furnished, the respondent would move out, and Massillon would be a junction, without even a first-class post office.[28] On June 25, the day the Law and Order League presented its petition to the city officials at City Hall, Franklin Maier, attorney for the League, informed Hardman that he "had it straight" that unless something was done, the Republic was going to move their plant out of Massillon. At the conference with Chief Switter on the morning of July 7, the members of the League had urged in desperation that the steel mill was at stake, the City of Massillon was at stake, and that the business community would lose its biggest industry. The record is replete with testimony that Carl Myers, on numerous occasions, had stated to the city officials that if they did not get the mills open, Massillon would be "a prairie in the junction of route 21 and route 30," that if the plant were lost, the people of Massillon and the city officials would be responsible for losing it, that without the mills, Massillon would need neither a Mayor nor a Chief of Police nor a City Solicitor. General Marlin, who had been in communication with the members of the League and whose troops were quartered in the respondent's main office, pointedly informed the city officials that it was not the proper time to select neutral men as special police, that if they wanted the steel mill in Massillon, they would have to be prepared to take over the situation when the troops left and that if they did not keep the mill open they would lose it.

Under this threat of economic disaster, the Law and

28. On or about June 9, Lanham, Poe, and other members of the League also telephoned to Myers when they heard that "they were going to close up the mill, they were not going to open it up."

Order League, while publicly maintaining that its purpose was to establish law and order, privately set to work with all its power to assist the respondent to break the strike and to reopen the plants. When, on June 15, the respondent, over the signature of Girdler, issued its statement that "movements similar to that which resulted in the opening of the Monroe plant are spreading rapidly to other affected communities," the respondent supplied the League with its program and its propaganda.

We have noted above how the Law and Order League assisted and subsidized the Back-to-Work Committee in many of its activities. Becker, Linckenhely and other members of that Committee conferred daily with Lester at his home and with Case at the Chamber of Commerce with regard to "the big move." So great was the League's anxiety to retain in Massillon the respondent's pay roll of $40,000 a day, that its members contributed within a few days $1200 toward a fund of some $8200 to be raised to pay for special police and police equipment. Its concern for the establishment of law and order may be measured by the fact that the $1200 was returned to the members when it was learned that the city officials would not use the special police to break the picket lines. Lester and Lanham frequently acted as go-betweens between Myers and the city officials. Before the National Guard arrived, Case undertook the expense involved in extensive alterations of the municipal lodging house. When the National Guard was preparing to leave, the members of the League resorted to threats of impeachment against the city officials unless they agreed to hire the respondent's employees as special police.

Not the least of the League's functions was to assist the respondent in whipping up public opinion against the strikers and the Union by spreading unfounded statements that the C. I. O. was marching to invade Massillon, that explosives were being transported about the city, and that the

strikers had instituted a reign of terror, in which the city authorities were powerless.

Finally, Case and other members of the League, together with the respondent, were successful in having Major Curley, allegedly a disinterested public spirited citizen of Massillon, placed in a position of authority in the Massillon police department, with results which are described below. In sum, what the respondent was unwilling or unable to do openly, it accomplished in part through the businessmen of Massillon, acting under the guise of establishing law and order. Under the stimulus of the respondent's threats to abandon its Massillon plant the League became the respondent's accomplice.

At 3 o'clock on the afternoon of July 7, a crowd of 60 or 70 men appeared at police headquarters, a good many of whom Switter recognized as employees of the respondent. Curley and Switter lined the men up and at Curley's suggestion all those under 30 years of age and all married men with families were asked to step forward. After these were dismissed, a further selection was made from the remainder, and 40 men were finally chosen as special police officers. Before the men were sworn in, Switter testified, there was a slight delay. "The bondsman did not show up and Curley had to contact Gordon Hess and he told him to arrange for getting the bondsmen to come over from Canton to bond the group of men . . . that is who Captain Curley said he was talking to, wanted to speed them up so they could swear them in."

In the light of subsequent events, the method by which these special police officers were bonded deserves careful examination. On July 5, Thomas R. Smith, a member of the insurance firm of Duerr, Smith, Lane Company of Canton, received a telephone call from Kenneth Cope, an attorney whose firm represented the respondent in this and other

proceedings, to come to the respondent's offices in Canton and sign some bonds for special policemen. At first Smith refused on the ground that he was forbidden to sign such bonds during a strike, unless the respondent were willing to indemnify the Fidelity and Casualty Company of New York, the bonding company which Smith represented. Later Cope stated that the indemnity agreement could be arranged, and, accompanied by Assistant City Solicitor McCarroll of Canton, Smith drove to the Canton plant of the respondent. There W. C. Gubbins, the respondent's assistant treasurer, and Speis, its chief clerk, were engaged in selecting the men to be bonded from a group of employees. After certain employees had been dismissed as being "too hot-headed," the remainder, 56 in number, signed application forms and Smith signed, sealed, and executed public official bonds upon which the names of the employees had already been typed. Each bond bound the employee as principal, and the Fidelity and Casualty Company of New York as surety, to the City of Canton in the penal sum of $500, and was conditioned upon the faithful performance of duty by the employee as private police officer of the City of Canton. On the back of each signed application form, Gubbins wrote "Republic Steel Corporation by W. C. Gubbins, assistant treasurer," and agreed that the respondent would indemnify the Fidelity Company for any loss that company might sustain as a result of having acted as surety on the bonds. Assistant City Solicitor McCarroll then swore in the respondent's 56 employees as private police officers of the City of Canton. Of these 56, at least two were Employee Representatives, and two were supervisory officials at the Canton Works.

On the afternoon of July 7, Attorney David Day, of counsel for the respondent, telephoned Duerr, Smith, Lane Company and asked Smith to go to Massillon to sign more special police bonds. Day, Gubbins, and Smith then drove

to City Hall in Massillon, where Day inquired of the desk sergeant in the police department for Captain Curley. Curley took the group to Switter's office and introduced them to the Chief who greeted them curtly, and sent them to another room where the men whom Curley had selected were waiting to be bonded. Smith testified that none of the men were rejected, as they had been in Canton, and that the final selection had been made before they came to him. Hardman, Gubbins, and Curley, sitting at a table, assisted Smith in executing the bonds. Gubbins, who had been handed a list, apparently by Curley, of the men to be bonded, inquired of each applicant whether he was an employee of the respondent and, if so, his badge number. Hardman then administered the oath of office to the entire group as special police officers of the City of Massillon.

Under date of July 6, Smith forwarded to the respondent an itemized bill for $830, covering special police bonds, at a premium of $10 each, issued for 56 Canton employees and 27 Massillon employees of the respondent.[29] On July 13, Gubbins, for the respondent, signed a contract of indemnity whereby the respondent, as indemnitor, agreed *inter alia* to become surety for the Fidelity Company on both sets of public official bonds.

Of the 27 Massillon employees thus bonded by the respondent, one William F. Henderson, was a foreman, and another, Maurice Schnierly, was an Employee Representative at Canton. In addition to these 27, 13 other men were appointed, making a total of 40 special police officers. Of the 40, the names of 19 had been submitted to the Chief by Peppard, Becker, and Angstadt on the morning of July 7; 24 had signed the Back-to-Work petition; and at least 32 were employees of the respondent.

29. Smith testified that the bonding of the police occurred in Canton on July 5 and in Massillon on July 6. All other witnesses fixed the date of the bonding in Massillon as July 7.

From these facts it seems clear that Curley knew in advance the employees whom the respondent wished selected as special police officers and that in their selection he acted as the respondent's agent. Curley, however, denied that anybody connected with the respondent had anything to do with his activities, and denied that he knew the names of the 60 or 70 men who came to City Hall on July 7, or what plants they came from or whether they were employees of the respondent. Curley also denied that he knew that bonds were issued for the Massillon employees who were sworn in, or that he had telephoned Gordon Hess to arrange for the bondsmen to come from Canton, but admitted that he had spoken to J. Lester about it. These denials are not convincing. On the morning of July 7, the Law and Order League had demanded and the city officials had agreed that the respondent's employees would be appointed as special policemen, and Curley was in constant touch with Case and other members of the League. At the luncheon meeting of the League on July 7, Curley had rejected the proposal that home guards be appointed, and Carl Myers had approved his action, adding, according to the testimony of the respondent's own witness, "the whole matter could be safely left with Major Curley . . . the whole situation could rest with him." This was tantamount to a ratification of Curley's authority. In addition, before the bonds were signed for the employees in Massillon, Curley either telephoned to Gordon Hess, or spoke to J. Lester about telephoning to the respondent at Canton, in order to hurry the bondsmen to Massillon. Whichever version of this incident we accept, it is apparent that Curley knew, at least after the men had been selected, that they were to be bonded by the respondent. The uncontradicted testimony of Smith, the bonding agent, who came to Massillon as a result of a telephone message from the respondent, confirms this conclusion. Smith testified not only that "Curley had

mentioned to (Switter) what we came for, to bond the special policemen," but that Curley was sitting in the very room where the men were bonded and where Gubbins was writing down their badge numbers. Furthermore, although in Canton Gubbins had weeded out certain employees before they were bonded, in Massillon he made no such selection and ratified Curley's choice without question. From these and other facts, we conclude that Curley's activities were conducted with the full knowledge and approval of the respondent, that Curley knew in advance and carried out the respondent's wishes, and that the manner in which he selected at least 32 of the respondent's employees of a total of 40 special police was designed to conceal the fact that, while apparently selecting men most suitable for the position, he was in reality choosing men whom the respondent had already designated.[30]

On July 8 and 9, the National Guard moved out of Massillon and the police department, thus augmented, assumed control. Although there were no city funds to purchase equipment, Switter ordered 30 new sidearms and four dozen new night sticks. By Sunday, July 11, all the special police were armed.

"The breakdown of law and order in the city!" observed Switter on the witness stand. "Not one of these new men were put out where these homes were supposed to

30. Attached to the bill, dated July 6, which Smith sent to the respondent covering special police bonds for 56 employees at Canton and 27 employees at Massillon, was an attached schedule of the names of these employees together with the report numbers of their bonds. With respect to this bill and attached schedule, Smith testified that it was "dated July 6th and it was made in our office at that time, and on the back of this we have attached a list of names arranged alphabetically." The employees named in the schedule were not sworn in until the following day, July 7. This confirms the conclusion that the respondent had chosen the employees to be appointed as special police officers before Curley had lined the men up at City Hall for his "selection." Despite the fact that Smith erroneously described the bonding as having occurred on July 6, we are inclined to consider the bill and attached schedule which were contemporaneously made, in the regular course of business, as better evidence than oral testimony, given some weeks later.

have had windows broken out of and men taken out and attacked. The whole outfit was concentrated in the strike zone."

At 2 o'clock on the afternoon of July 11, Switter and Curley drove to the Massillon Works to watch the behavior of the pickets when the afternoon shift of workers entered the plant and the morning shift came out. "The afternoon (shift) went along in fine," testified Switter, "no trouble at all." Curley and Switter then drove to a mass meeting of the Union at Oak Knoll Park, observed the conduct of the crowd, and made several trips to the Massillon Works and the plant of the Union Drawn Steel Company to see that the special police officers were at their posts. At about 5 o'clock according to Switter's testimony, Curley remarked, " 'I will go see that the night shift changes all right, you better get away and get some rest and recreation. You been at it too long. It is getting you down.' I said, 'That is fine, thanks old boy. If you will look after it, I am gone'." With this, Switter left Curley, went home to supper, and at 9:30 that evening drove out into the country with some friends for a few beers and lunch. On the same day, in the belief that the city was quiet, Hardman had left Massillon to visit his wife who was away on a vacation.

Nothing was said, testified Switter, about placing Curley in charge of the police department. "Things were quiet and they were having this meeting and it didn't look like anything was going to happen. It didn't look like there was going to be anything. It went off on the afternoon shift all right and we did not figure anything was going to happen that night."

> "Q. (by Mr. Donald Wakefield Smith) Is it fair to say that you didn't regard this as a matter of delegation of authority to Captain Curley? You merely

thought nothing would happen and he would be around there?

A. That is right. He was going to see the new rookies went on the post standing in front of C. I. O. headquarters and there was a viaduct and a couple of men to be posted under the other end of the viaduct, and a couple of other roads supposed to be blocked so no traffic would come through. And that is the way it was supposed to be handled and he was just going to see the men were on their posts and what he could do. . . ."

Nevertheless, as soon as Switter had left the city, Curley took complete command of the police force, and countermanded all of Switter's previous orders.

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5. *The incident at C. I. O. headquarters*

At approximately 11 o'clock on the night of July 11, three persons received fatal injuries and an undetermined number were injured by gunfire and gas fumes, when special and regular police officers, under the command of Major Curley, dispersed a crowd of strikers and strike sympathizers at C. I. O. headquarters on Cleveland Avenue near the respondent's district office, in the city of Massillon. All those killed or injured were strikers, strike sympathizers or bystanders. None of the police sustained any injuries.

Witnesses for the Board claimed that Curley in Switter's absence led the special and regular police in a murderous and unprovoked assault on C. I. O. headquarters, pursuant to a plan to destroy the Union and break the strike. The respondent sought to show that the strikers had assembled at the C. I. O. headquarters with a preconceived plan to rush the police, enter the mill, and remove the employees who had returned to work. In order to

understand the causes of and the responsibility for this encounter, it is necessary first to examine the circumstances immediately prior to its occurrence.

As noted above, as soon as Switter had left the city Curley, without authority, took command of the police department. He testified that at about 9:30 p. m., when he walked over to City Hall, "the boys were getting ready to go on the 10 o'clock shift. They all came in and reported for duty. A lot of rumors flying around there that in the afternoon meeting which they had at Oak Knoll Park and they were going to come down and clean up the Police Department. I said 'Hell, I have heard that so often. . . .'[31] They all came to me—I didn't know—for orders. They said 'What will we take along?' I said 'Hell, there aint anything to take along. . . . There is some gas in back of the Sergeant's desk there. Some gas guns'." To this elaborate expression of unconcern Curley added, however, that the police officers took "everything we had . . . tear gas . . . five tear gas guns . . . and a submachine gun." Officer William Fellabom, a former machine gunner who served in the World War in the company which Curley organized, testified that at 9:30 p. m., when he reported to the police station, "Curley was in there and as soon as he saw me he says 'Bill, you better take your machine gun along tonight. They expect a lot of trouble, so I takes the machine gun and some ammunition there we had and they hustled us right down there'." From the testimony of other witnesses, it is clear that the police also took the 90 gas projectiles, six combination shells, and other equipment which Lieutenant Adler of the respondent's police and Raleigh Frank had transferred to Switter for the police department at the Brookside Country Club on the night of June 9.

31. The Trial Examiner granted a motion by the Board's attorney that this latter remark be stricken from the record. In our view of the evidence, the remark is relevant as showing the unimportance which Curley attached to the rumor. We hereby overrule the ruling of the Trial Examiner.

Officer Ickes, a witness for the respondent, testified that when he reported for duty at 9:45 p. m., Curley countermanded Switter's order of the previous evening assigning Ickes to the plant of the Union Drawn Steel Company, and ordered Ickes and Special Officer Kelleher, one of the respondent's employees, to a post on Cleveland Avenue, 50 feet south of C. I. O. headquarters. The usual number of police assigned to this post was six. Curley admitted that after 10 p. m. the number was increased to 20, explained that he had countermanded Switter's order with reference to Ickes only because the plant of the Union Drawn Steel Company was not working that night, but denied that he had assigned more than two or three additional police to Cleveland Avenue.[32]

From the testimony of other witnesses for the respondent, it is clear that Curley's testimony is not to be credited. Officer Fellabom testified that 'before we left the station Curley says 'I will be over there, close to where the line is or close to the C. I. O. headquarters. . . . I want to see you over there. . . . You fellows will have to be stationed over there until things quiet down'." Officer Kraft testified that Curley had sent eight or nine police officers to C. I. O. headquarters that evening in addition to those already assigned. Furthermore, Switter testified that when he returned to Massillon on the next morning, Captain Curley informed him that "he had raised the normal guard which was usually stationed about 50 feet in front of the strike headquarters from six men to 20 men." In view of this testimony, we conclude that Curley, upon his own authority, at approximately 10 p. m. armed the police with all the weapons in the possession of the police department, including the gas donated by the respondent, and ordered

32. Curley's testimony on this point is confused. At times, he appeared to admit having assigned all the additional police to Cleveland Ave.; at one point he claimed that Officer Ickes was "about the only one he assigned."

the normal guard on Cleveland Avenue near C. I. O. headquarters raised from six to 20 men. Of the 20, the record indicates that at least eight were employees of the respondent, including foreman William Henderson.

As already indicated, Curley, in justification for his having armed the police offered the rumor that in their afternoon meeting at Oak Knoll Park, the strikers had threatened to "come down and clean up the police department." It is clear that nothing occurred at this meeting to warrant the rumor. Edward Davies, an employee of the First Savings and Loan Company, testified for the respondent that he attended this meeting, that he heard Joe Morton speak, that "Morton made different statements in regard to the men that they should fight on, that they are bound to win the strike . . . that they should be down that night at 11 o'clock on the picket line." On cross-examination, Davies admitted that the meeting was perfectly peaceful, and that the general tenor of Morton's speech was merely such that "if I were . . . on the striking side, (it) would help me to feel I was justified and I wanted to continue . . . out on strike." Moreover, Switter testified that before he left Massillon at 9:30 p. m. on July 11, he had heard no rumors of any kind with regard to threatened activities of the strikers. Finally, even Curley himself attached no importance to the rumor. He admitted that between July 7, when the special police were sworn in, and July 11, before he assigned additional police to Cleveland Avenue, there had been a decrease in the number of arrests and the amount of difficulty, that on the afternoon of July 11, when Switter left Massillon, "everything seemed to be all right," and that on the evening of July 11 he did not expect any trouble. We are therefore unable to believe the explanation offered by Curley for his orders.

At approximately 10 o'clock, the 20 officers reported to their posts at or near Cleveland Avenue. In order to

understand the events which took place after their arrival, a brief description of the locality is necessary. C. I. O. headquarters is a rectangular two story wooden frame building, with three front doors and three windows, facing west on Cleveland Avenue. Three steps, each about a foot high, lead up to the front doors. The union occupies the lower floor of the building, and had established a soup kitchen there to feed the pickets. The second story is occupied by the family of Wilbert Coleman, a non-striker who appeared as a witness for the respondent. About 100 yards to the southwest of this building lies the respondent's district or main office. About 350 yards to the southeast, on Oberlin Avenue, there is a viaduct over which a number of employees drive to work. Gate No. 1, the entrance to the sheet division of the respondent's plant, is located on Oberlin Avenue, approximately 175 yards west of the viaduct and about the same distance southeast of C. I. O. headquarters.

Immediately upon their arrival at C. I. O. headquarters, the police pursuant to Curley's orders, prepared for trouble. Officer Ickes testified that from the time that he arrived on the scene, between 9:45 and 10 p. m., he expected trouble because otherwise "I would not have been sent down there." At that time, he testified, he procured from the police car a tear gas gun and nine projectiles, loaded the gun, and stationed himself across the street from C. I. O. headquarters. The other special and regular police officers, all armed with police clubs, revolvers, shotguns or gas equipment, took posts on Cleveland Avenue, between 50 and 100 feet south of C. I. O. headquarters.

Curley directed Officer Fellabom to station himself, with his submachine gun, directly across the street from C. I. O. headquarters. Officer Fellabom testified:

"As Curley said *when I took the gun*, he says

'Bill what kind of ammunition have you got in there.' . . . I said 'Nothing but bird shot and paper shells.' He said 'That is right; that is right; use them in there, Bill'." [33]

"What time did he tell you that?

A. Right after I got out of the car when we landed there.[34]

Q. What time was that?

A. A little after ten; about 10 or 15 minutes after ten.

Q. When did Captain Curley tell you that he expected trouble?

A. At police headquarters.

Q. What time was that?

A. Ten minutes after ten.

Q. What time was that?

A. Ten minutes to 10."

At another point, Fellabom testified:

"Q. Now when you got there did you see any other officers there?

A. Oh, there was at least 16 or 20 . . . Curley . . . told me to get over on the left hand side, kind of southwest of where we stopped.

Q. Where did you go then. . . .

A. Over to the left hand side, that would be the west side of the street, up close to this tile building that is right pretty near straight across from C. I. O. headquarters."

It thus appears that at least three quarters of an hour before any shooting or any violence whatsoever occurred at C. I. O. headquarters, Curley directed Fellabom, the

33. With respect to the ammunition with which the submachine gun was equipped, Curley testified that it always had three magazines of "regular 45 bullets" and three of "45 bird shot . . . a paper shell on the end of it with about nine little shot in them."

34. Italics supplied.

former army machine gunner, to take a post directly across from C. I. O. headquarters and to use his submachine gun.

We turn next to a consideration of the number and attitude of the strikers and strike sympathizers who congregated at union headquarters that night.

John Veto, a striker, who during the strike made it a practice to go to C. I. O. headquarters every evening, testified that at 8 p. m. on July 11, "when I reached there, they were playing music and the people were dancing on the street and I danced too, and we had a lot of fun. Then the rain came and a lot of people went into the kitchen and a lot of others were on the other side of the hall . . . the music was playing in there . . . in the hall . . . on the north side. We were talking together and having a lot of fun. Then the rain stopped and all of the people went out again, and the music went out again and the people went on the street just the same as they did before. . . . I stood right there on the platform. . . . And on the bottom step there was a guy named Ruttenberg. And I believe Frank Hardesty was there. He was right on the sidewalk, I kept waiting around there and hearing the music. When I turned around on the south side there were 12 police over there. They was talking together. Pretty soon another car came and let three more out. As soon as the three more came, they all went together and talked together. . . . Then another car came and let three more down. . . . Three more special policemen. The fourth car came down there and it was a Massillon police car. . . . Well, I stood there, you see, and there were two police on the corner of Cleveland and Oberlin Avenue—that is near the plant and they were coming up toward the north where the other police were. They began to spread from this point here (indicating) across the street . . . they lined up."

Frank Hardesty, sub-regional director of the Canton-Massillon area for the S. W. O. C., who arrived at C. I. O.

headquarters at approximately 9:45 p. m. testified that at that time there were 50 or 60 pickets at strike headquarters. "I went in the large room where they had to feed the pickets and there was music in there. There were four or five young fellows in there playing music and entertaining the pickets and having a very good time. . . . We went down to a soft drink stand . . . stayed there five or ten minutes, and then we started back. When we came out of the building it immediately started to rain very hard. . . . After it quit raining we came to strike headquarters. And the music and things were going on as usual."

At a few minutes before eleven, continued Hardesty, "the pickets changed their shifts and there were more men there . . . inside and outside the strike headquarters. . . . I suppose there were possibly 125 or 150 men there at that time. . . . I talked to some of the boys again. The music was still going on." Other witnesses for the Board estimated the number at strike headquarters in the vicinity of 11 p. m. as between 175 and 200.

Several witnesses for the respondent confirm and amplify this description. James Adams testified that at 9:30 p. m. he visited Wilbert Coleman, who occupied the rooms above the C. I. O. headquarters. "When I got there," he stated, "why the men was out in front and one of them had one of these big bass fiddles and he was playing that . . . a large crowd was out there. . . . There was nothing—just talking—I didn't pay much attention to it. . . . Then it sprinkled a little bit and they all went inside. . . . I could hear the stamping and moving about inside." Wilbert Coleman on cross-examination added:

> "Q. (by Mr. Lauter) Now you said something about a crowd being up there on Sunday evening. Was that a customary procedure?
>
> A. Yes, on Sundays they gathered around there

and chattered around between themselves; more usual on Sunday evening.

* * * * * *

Q. Until the first shots were fired, everything was peaceable there?

A. Yes.

Q. Was there anything unusual about the crowd? Noisy or anything?

A. They were just talking; you could hear them talking."

The police, however, sought to picture the crowd as a desperate threatening mob. Thus, Officer Ickes testified that at about 10 p. m., when he arrived at Cleveland Avenue, he saw between 300 and 350 people in the vicinity; that at approximately 10:30 p. m. some unidentified man yelled "Let's get the police. Let's get them sons of bitches"; and that he walked down Cleveland Avenue for a police car to take the men away but that when he returned the men had gone. Officer Fellabom testified that C. I. O. headquarters was packed full of men. "I could hear them saying 'Come on boys, let's go through. We might as well cramp them sons of bitches down. We might as well die now and get it over with. . . .' And he seemed to be a little intoxicated—a man with a white shirt and a straw hat. Then Curley . . . hollered over to the C. I. O. headquarters—he says 'A couple of you men take this man out of here before he starts to make any trouble'." According to Fellabom, this incident occurred immediately before the shooting. Curley testified, however, that a group of officers, including Officers Ickes and Fellabom, informed him at approximately 10:50 p. m. that there had been "a couple of drunks" that were getting unruly and ought to be taken away but that they had not seen them for some time.

It appears that all three witnesses have thus described the same incident. On cross-examination Ickes stated that

the men were talking in foreign languages. "I could understand that when they said 'Let us get the police' but I couldn't understand the rest much." He added that these words were spoken lish and were the only words he understood. If Ick statement is true, then Fellabom's version must be regarded as embroidered. In any event the entire incident was considered so unimportant that neither Kraft nor Kelley, the other officers described as having been present, mentioned it in their testimony, and Curley himself merely referred to the men as a "couple of drunks that were getting unruly and ought to be taken away." All witnesses who testified to the alleged incident are agreed that within a few minutes after its occurrence the men disappeared. As noted above, the men were not identified.

On the other hand, Officer Johnson testified that there were between 250 and 300 people present that night; that 200 people was not an unusual number on nights when dances were held at C. I. O. headquarters; that, although he did not hear any music, the crowd was just moving around as any crowd of 250 people would do; and that he noticed nothing unusual about their appearance. Johnson also admitted that, although he did not see any women and children present before 11 p. m., he observed three women emerge from C. I. O. headquarters at 11:10 or 11:15. Officer Ickes testified that when he arrived at Cleveland Avenue at 10 p. m. and saw a crowd of approximately 350 people, he noticed women and children among those present and that women and children were among the crowd when the shooting began. Even Officer Fellabom admitted that, except for "a load of drunks" whom Johnson arrested and the remarks of the intoxicated man with the white shirt and straw hat, the crowd was perfectly peaceful.[35]

35. Officer Johnson testified that between 10 and 10:20 p. m. he stopped a car containing six men, driving up Cleveland Avenue, and asked the men their business. "They said they were C. I. O. men from Canton . . . going up to the C. I. O. Hall . . . They stepped out of the car and I searched them,

In addition, the record demonstrates that none of the strikers were armed. None of the police or other witnesses for the respondent claimed to have seen sticks, guns, knives or any other weapon in the crowd during the entire period prior to the encounter. As set forth below, of 165 persons arrested shortly after the encounter, only one, Harry Jones, was found by the police to have had even a pocket knife, and Jones testified that it was a knife which he had been accustomed to carry for 4 or 5 years, and that on the night of July 11 he was unaware of the fact that he had it.

We conclude that the crowd which gathered at C. I. O. headquarters from 8 to 11 p. m. was an unarmed, peaceful assembly, composed in part of women and children, engaged in playing music and dancing and other activities usual to a Sunday night gathering.

At approximately 10:40 p. m., while the police with loaded gas guns and other weapons described above were stationed across the street from C. I. O. headquarters, a collision occurred at the corner of South Erie Street and Oberlin Avenue, a third of a mile distant from Cleveland Avenue. Because of the unreliable and conflicting testimony given by the witnesses for the respondent, the exact circumstances of this collision are not clear from the record. Certain facts, however, are undisputed. It appears that an automobile crashed into an abutment near the viaduct. Almost immediately another car bearing a C. I. O. sticker

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searched the car for weapons, but they didn't have any . . . (I) took them down to the police station and signed an affidavit . . . and locked them up in jail." The arrest was occasioned by the fact that a proclamation of the Sheriff of June 25 forbade all persons from entering the vicinity of strike areas except on lawful mission. The testimony is in conflict as to whether the proclamation and an injunction of the same date issued by the Court of Common Pleas of Stark County apply to the City of Massillon, where the above-described incident occurred. There is no testimony whatsoever in the record, except for this passing reference by Fellabom, that the men were drunk. The Trial Examiner ruled that similar testimony given by Curley with respect to the incident of the car from Canton be stricken from the record as having no connection with the issues in the proceeding.

collided with the first car, with the result that the viaduct was temporarily blocked. The driver of the first car was taken into custody by several officers; the driver of the second car attempted to run away, but some one in the crowd in front of a beer garden located on the northwest corner of Erie Street pointed out the fugitive to Officer Mantasch, who pursued, fired one shot and captured him. Thereafter several unidentified numbers of the crowd threw stones and beer bottles at other cars. Mantasch testified that Officer Schwinger fired "some shots at some guy who threw stones" and that Officer Davenport shot off a riot gun to scare a man hiding under the viaduct. It appears that several shots were fired, all by the police, shortly before 11 p. m.

In 10 or 15 minutes the crowd was dispersed, the cars which had collided were pushed off to one side of the road, and traffic at that corner was resumed. Officer Mantasch took the drivers of the two cars to the city jail and locked them up. The man whom he had pursued gave his name as Flores and said that he belonged to the C. I. O.

Apart from these facts, the record provides no clear picture of what occurred at the viaduct. Thus Officer Mantasch on direct examination testified that at 10:15 p. m. when he arrived at the corner of South Erie Street and Oberlin Road, "I wouldn't exaggerate, I would say (there were) around a thousand people around the streets with automobiles" and several hundred gathered in front of the beer garden. On cross-examination, he testified with reference to the size of the crowd:

"Q. (by Mr. Lauter) You are sure there weren't more than a thousand?

A. Might have been more.

Q. About 1500?

A. Might have been more. . . .

Q. Might have been three or four or five thousand?

A. I didn't count them. . . .

Q. There is no limit to the amount of people that might have been there?

A. That is right."

Charles Moorhead on direct examination testified for the respondent that between 10:20 and 10:45, before the shots were fired by the police, he saw a large number of people milling around and talking at the east end of the viaduct. The number, however, he estimated as "in the vicinity of 40." Officer Moore, another witness for the respondent estimated the number as 300. Moorhead further testified that he saw a group of 20 or 25 men rush out from between houses near the viaduct and throw stones at 10 or 12 automobiles; that, after this, he saw Harold Rinke, a member of the C. I. O., and heard him say "Come on boys, let's get the other side. We are going to town"; and that about 100 men then followed Rinke in a northerly direction.

On cross-examination, Moorhead radically altered a number of these statements. He admitted that he had seen three or four cars stoned, instead of 10 or 12, asserted that there were about 100 men throwing stones, but admitted that he had not seen anyone breaking windows or glass on the cars, although he had heard the crash. With respect to Harold Rinke, he testified:

"Q. (by Mr. Lauter) You weren't able to identify any of the hundred men?

A. That is right; only one I saw but I didn't see him throw any stones.

Q. You didn't see Harold Rinke?

A. No, sir.

Q. The only man you knew was there was Harold Rinke and you didn't see him throw any stones?

A. I didn't see Harold throw any stones."

Moorhead first asserted, and then denied, that he knew that the hundred men were members of the C. I. O. and added that there were present a number of the respondent's employees other than the members of the C. I. O. On redirect examination, he stated that he had recognized Harold Rinke sitting in a car. It is apparent that no conclusion can be drawn from the testimony of this witness.

Other witnesses for the respondent throw little, if any, further light upon this incident. In addition to Flores, only two or three members of the C. I. O. were identified by name or otherwise as having been present at the viaduct during this period. There is no evidence whatsoever that these two or three threw stones or committed any acts of violence.

As a consequence, however, of the shots fired by Schwinger, Mantasch, and Davenport, the police on Cleveland Avenue, already instructed by Curley to prepare for trouble, began to grow restless. "It didn't look so good," testified Officer Kelley, "the fracas in the viaduct and the stones and the two men in the cars on the bridge." Kelley added that he had heard shots from the viaduct, but did not know that the police had done the shooting.

From this description of the incident at the viaduct, we return to a consideration of the events that were occurring in the meantime at C. I. O. headquarters. The nature of these events, which precipitated the fatal encounter, was one of the most controverted questions at the hearing, and even their sequence, as presented by witnesses for the Board and for the respondent, is in considerable conflict. We turn first to the testimony of witnesses for the Board.

All of the witnesses for the Board testify that immediately preceding the encounter an automobile drove up and parked among several other automobiles directly across the street from C. I. O. headquarters. Martin Beckner, vice president of the Canton Lodge of the S. W. O. C., testified that at this time he was standing in the doorway of C. I. O. headquarters and noticed the police "deployed across the street and some spread out and some closer than others, and I noticed there was something unusual about them. . . . They all had guns, but up until that time they only had clubs. . . . It appeared they were nervous, acting like men expecting something, and from the way they were acting I went into headquarters and asked the president of the Massillon Lodge if that was their usual method of conducting themselves. . . . We decided that these were new men and we had better ask the pickets outside to go home. . . . So the president of the Massillon lodge stepped out to tell these men to go home and when he went out the door, I stepped outside the door and stood on the step and Harold Ruttenberg was standing in the door way. . . . A car pulled up across the street and two men came out and Bill Henderson . . . a chipper foreman in the Massillon plant . . . and the other policeman came forward toward the car. I didn't know who the other man was, but they told the drivers to put those damn lights out or they would shoot them out. . . . The car was across the street about 50 feet further down.[36] The men switched out the lights and these two officers started back toward the line of police and someone in the crowd of pickets yelled 'Whoopee' or something . . . and these officers immediately dropped to the ground and someone said 'break them down and let them have it,' and the shooting started about fifty feet down from the strike headquarters on the

36. Other testimony in the record indicates that this car, driven by Harry Jones, a striker, was parked approximately 20 feet south of and across the street from C. I. O. headquarters.

southwest corner." It will be noted that Beckner testified that the shooting began in the immediate vicinity of the parked car whose headlights the police had ordered to be turned out.

Frank Hardesty was also standing on the steps at this time in the midst of a group of 20 or 25 men. He testified that a car drove up on the opposite side of the street. "His car was headed, or his lights were headed toward the mill. . . . What I noticed particularly was that the lights were shining on the policemen down there and I suppose they were more or less frightened being new men. They acted kind of nervous anyway . . . and one of them shouted 'Take the lights off.' . . . I saw the fellow cut his lights off, when they hollered at him. . . . It was only a few seconds after that until one of the policemen hollered 'Let them have it break it down.' I saw one policeman drop down and start shooting."

John Veto testified that about 20 police lined up across Cleveland Avenue "and then a car came up there with their headlights . . . from the north coming south, and they had the lights toward the police there. While the light was flashing, I saw a machine on the other side of the road, the police side. . . . Two cops stood up and they went forward and I heard them say 'Shut the lights off.' Well the car shut them lights off . . . and they took a couple of steps backwards and they said 'Let's bust them up boys.' And then they dropped flat." Veto identified one of the advancing policemen as Bill Henderson. "Then a shot came by just where I was standing."

Walter Meyer, a striker, who had driven in his automobile to Canton with his wife and Mr. and Mrs. Wincek to attend a union meeting at Sippo Park, returned to Massillon shortly before 11 p. m. "After we went out in the evenings we always stopped and got a bowl of soup or

lunch or something before we turned in for home, but this evening I was broke and Mr. Wincek didn't have much money either and when they mentioned about getting a bowl of soup at C. I. O. headquarters on Cleveland Avenue at Massillon we figured it would be a good place to go and get something to eat before we went home, so we all agreed to do so . . . and we drove down Cleveland Avenue north and pulled right directly across from C. I. O. headquarters and parked."

"Q. (by Mr. Lauter) In the direction of the mill, is that right?

A. The mill is directly south, in my estimation from Cleveland Avenue and the C. I. O. headquarters is on the east side of the street, and I parked directly across the street which is the west side. . . . I noticed there was a fire plug back of me, so I pulled up six or eight feet from it and parked. We were there for some time and quite a few people were standing around there talking and having a good time, and we were discussing whether we wanted to go in and get a bowl of soup and go back home. . . . So while I was discussing that with them, I seen a car coming down Cleveland Avenue and passed our car and pulled in directly ahead of us and passed the fire plug and parked directly ahead of us.

Q. Was that on the same side of the street you were?

A. The same side of the street, and I judge it was 20 feet between my car and this man's car. The man pulled up and he shut his motor off and I heard the cops holler 'Turn them lights off.' I don't think the man heard the cops when they called the first time. Well, the man was getting out of the car, and he stepped on the pavement and they hollered a second time 'Turn those lights off or we will shoot them off.'

So the man reached in and shut them lights off and he started toward the C. I. O. headquarters. . . . Well we sat there with the windows all down and after this man left that car, I turned around toward Mr. and Mrs. Wincek and my wife and asked them the last time what they intended to do, if they wanted to go in and get a bowl of soup or if they wanted to go back home. While they were arguing about it, at that time, I heard the motor start in the car ahead of me and I looked around quick and I seen his bright lights were on, and without warning, there were two shots fired and the shots sounded as though they hit the car ahead of us, and I surmised that they were shooting at the man's lights because they had said before they were going to shoot the lights off and just at that time the shots were fired, it all happened I heard the cops holler 'The God damn hunkies asked for it, let us give it to them.' . . . It was just like a hail storm hit my car, sounded like machine guns and shot guns, it sounded like the fourth of July or something at the lake and I seen all the people just pick up and run and run around corners, anywhere, they could go, and after that why the shooting kind of quieted down."

Harry Jones, a striker, was the driver of the car referred to in the foregoing testimony. He testified that "I drove down and pulled up right across the street from headquarters . . . and parked my machine. My brother-in-law and another young fellow were along. . . ."

"Q. (by Mr. Lauter) When you pulled up in your car where did you stop?

A. Right across the street from headquarters. . . .

Q. Was that in front of the fire hydrant or back of it?

A. It was just in front of it . . . My brother-in-law said 'Someone hollered to turn the lights off.' I

turned off the lights. He said 'You better turn them on dim.'

Q. By the way, are you a little hard of hearing?

A. A little yes. That is the reason I didn't hear him. But my brother-in-law heard him and he told me . . . So I got out of the left side of the car and turned them on. And my brother-in-law and the other fellow got out on the right. I suppose I took two steps, far enough to open the door and shut it, and I looked down and seen the policemen. I turned around and got in the car and pulled the dim lights on. When I went to pull the dim they just flickered and I pushed them back . . . (The lights) flickered so I got out of the other side of the car. I reached in and turned the lights off and I stood back from the car. Just as I got back from the car, the shooting started . . . When they (the police) started to shooting I jumped in a doorway. I stood there for about a second or about a minute, I suppose, until the first volley was over. I got down and went around the corner and faced the police. I waved my hand and I hollered 'For . . . sakes stop shooting until I get my machine out of here.' So I ran back to the car and started the motor. And then I went to pull on the dim lights and it flickered. As she flickered a shot hit the windshield and glass flew in my face and I ducked."

The police version of the incident of the headlights differs sharply from that of the strikers. Curley testified that the headlight was shot out at 11:15 p. m., approximately 15 minutes *after* the shooting elsewhere had begun. "The fellow drove up with a car and he flooded all the police officers out there with all of the bright lights and just scattered the lights all over the whole area. And Fellabom says 'Turn out those lights.' The fellow turned

out the lights and got right back in and turned them back on again and Fellabom says 'If you don't turn those lights out, I will shoot the damn things out.' The fellow didn't turn them out, so Fellabom just shot one out."

Officer Fellabom was standing on the west side of Cleveland Avenue "pretty near straight across from C. I. O. headquarters." On direct examination he testified:

> "Q. (by Mr. Pontius) Something has been said with respect to an automobile that ran up in here. Did you observe it?
>
> A. There was a car coming in there just before the trouble started (the shooting at approximately 11 p. m.) I should judge about maybe five minutes before . . . This car came down in there and whoever was driving it pulled over to the right hand curb and he had his bright lights on. Some one hollered over there to put those lights on and someone else hollered over the C. I. O. headquarters 'Turn them on and keep them on.' Of course, the illumination was pretty bright there for the boys that was on the road there. This young fellow parked his car right along the curb, right near this tile building, and he still had those lights on. Then he jumped out of the car. Somebody hollered 'Turn them out or we will shoot them out.' So I shot out one of the headlights. After he ran away from the car he left it sit . . .
>
> Q. Was that before the other trouble occurred that you described?
>
> A. That was before the trouble started.
>
> Q. What instrument did you use to shoot the headlight out?
>
> A. A machine gun."

On cross-examination, however, Fellabom materially changed his story:

> "Q. (by Mr. Lauter) Before that (the shooting

which occurred at approximately 11 p. m.) you had shot out the lights in the car that was standing in front, is that right?

A. That was *after* I shot toward the door.

Q. What is that?

A. That was after I shot at the door. You see, the car was standing in there with the lights on and the young fellow, whoever it was, he was in the car and left it and then he came back and then he left it for the second time. I think it was some time after the shooting from over the door that the headlight was shot out.

Q. About what time did you shoot the lights out from the car?

A. Oh that might have been 11:30 along in there.

Q. What time did the man drive up with the car?

* * *

A. Just before 11; around 11 o'clock.

* * *

Q. The lights were shining on the police all that time for 35 minutes?

A. Yes.

Q. You walked over to the car 35 minutes after the lights had been on and told them to turn that off?

A. I told them to turn that off?

Q. Who did?

A. Some one hollered to turn them off. He jumped off the car and left them on and someone hollered, "You better put them lights out or we will shoot them out." He jumped in the car and then left the car. That is when the trouble started.

Q. You didn't shoot the lights out then?

A. No sir.

Q. You waited around 35 minutes before you started to shoot them out?

A. At least 35; 30 or 35."

It will be noted that on cross-examination, Fellabom not only claims to have shot out the headlight after the shooting elsewhere began, but denies Curley's explicit statement that Fellabom commanded the occupant of the car to "turn those lights out or I will shoot the damn things out."

On the other hand Officer Kelley, who was standing with Curley on Cleveland Avenue, testified the headlight was shot out as Curley was advancing up Cleveland Avenue, a few seconds before the general shooting. Officer Johnson testified that he arrived at Cleveland Avenue after the shooting had begun and that no headlights were shot out at 11:35 p. m. or at any time after his arrival.

We are convinced that the testimony of Curley and the testimony of Fellabom on cross-examination, with regard to the time the head light was shot out, is not to be credited. On the other hand, apart from their testimony with regard to the time, Fellabom and Curley appear to have accurately described the details of the incident. Hardesty, Beckner, and Veto stated that after the police had shouted to Jones, he turned the headlights off. It is apparent from their testimony, however, that they did not see the headlights turned on again or Fellabom fire his submachine gun at one headlight. From Jones' testimony, it is not clear whether he saw or heard Fellabom shoot out the headlight after he claims to have turned the headlights off. The entire incident occurred within a few seconds, and it must be remembered that Jones was hard of hearing, and Hardesty, Beckner and Veto were, at the time, standing in front of C. I. O. headquarters, where their opportunity to observe the events on the other side of the

street was limited. [37] Curley's and Fellabom's testimony that Fellabom fired shots at the headlights because they had not been turned off, is obviously the more reasonable of the two descriptions, since Fellabom would hardly have sought to eliminate a glare which no longer existed. In addition, the testimony of both Curley and Fellabom with regard to the details of this incident is supported by that of Meyer, whom we regard as the most accurate and reliable observer of the events in his immediate vicinity.

From all this testimony we conclude that as Curley and Henderson had advanced approximately 50 feet toward C. I. O. headquarters, Fellabom fired several shots at the headlights of Harry Jones' car, and that immediately thereafter the police opened fire at the strikers.

At the first volley, it appears that the crowd stood incredulous and then fled in utter and bewildered panic. Hardesty was standing on the steps of C. I. O. headquarters. He testified that a few seconds after the headlights went off "I heard someone shout again. 'Break them up! Let them have it!' And they started to shoot. However I didn't move immediately because not being used to riots and things of that sort, I really thought they were just shooting dummies. I thought it was more or less of a bluff. But it wasn't very long until I found out they were really shooting bullets . . . "

"Q. (by Mr. Hunt) When you say they were shooting bullets, to whom do you refer?

A. The policemen.

Q. Where were they from C. I. O. headquarters?

A. They were about 50 feet down the street to-

37. Fellabom testified that from where he stood on the west side of the street, his view of the doorway of C. I. O. headquarters was blocked except for the top two feet of the doorway, by a tarpaulin-covered truck, standing in front of C. I. O. headquarters. Presumably the view of Hardesty, Beckner, and Veto with respect to the activities of Fellabom on the opposite side of the street was similarly blocked.

wards the steel plant. I saw a policeman go down like this (illustrating) and start to shoot. At first, I couldn't really believe they were shooting real bullets into a crowd of men like that, until I really heard the bullets flying and the bullets flying off the building . . .

Mr. Edwin S. Smith: Let me get this straight. Was this crowd of men standing between you and the policemen and you were in back of them?

A. No, I was right in more or less mixed in with the men. There were some of the fellows who were behind me and some of them were in front of me. We started to move up the street. I had not moved far at all until one fellow hollered he had gotten shot in the shoulder and he threw his hand over his shoulder.

Mr. Edwin S. Smith: What did he say?

A. He said 'They got me. I am shot.' There were three or four friends with him and they grabbed hold of him and took him along with them.

Q. Let me understand this. You were running up Cleveland Avenue.

A. We were running up the street from the mill, up Cleveland Avenue. I had not run very far until I saw another man lying on his face with his hands outstretched, motionless, who had been shot by the policemen and from the way he was lying there, there was no doubt, or I thought he was dead, and I guess it did turn out that he was dead. So we kept running up the street until we found an opening in the fence. After I got there, Martin Beckner and another fellow drove up and on. Beckner was hanging on the running board of the car and he stopped and we got into the car and went back to Canton.

* * * * * * * * *

Q. Did you on the evening of July 11 at any time see any shooting at C. I. O. headquarters?

A. I did not.

Q. Did you see any persons other than police using any weapons?

A. I did not."

Martin Beckner who was standing on the steps of C. I. O. headquarters, had a similar experience:

"Q. (by Mr. Lauter) Was there shooting by anybody else?

A. Shotguns, machine guns and bullets from these special policemen located south of strike headquarters.

Q. At any time you were on the scene did you see any shooting from C. I. O. headquarters?

A. There was not.

Q. During the entire evening did you see or hear any shooting by any of the C. I. O. men?

A. No sir.

Q. Did you see any shooting by anyone else besides the police?

A. I did not.

Q. Describe what happened after the shooting started.

A. When they started shooting I went around strike headquarters on the north side of the building until I came to a lane running parallel with Cleveland Street . . . and seen some people from Canton in a car with two women and I told them to get the women out . . . because I didn't want to see the women shot . . . I went toward the Massillon headquarters and saw a man lying face down in the street and every once in a while the police were shooting gas shells and I said 'Let's get that fellow out' and we carried him up to the corner of Cleveland Street and McKinley Avenue and a car came up with two men and two women in it (the Meyers and the Winceks) . . . We stopped the car

and put the man in it and a second man had fallen and we picked this man up and he had been hurt in the shoulder . . . and by this time the special police started shooting at us and we started to McKinley Avenue . . . the special police men were lined up on the west side of the street and some were still coming up Cleveland avenue shooting gas shells and buck shot and these other policemen lined up across from the strike headquarters and every once in a while you could hear the gas guns and these special police went on up to another street running parallel with Cleveland Street and I seen this car with the Canton people in it and asked them to take Mr. Wilson—that was the name of the man that had been shot, and another car came along and I got on it and we drove back to Canton."

Walter Meyer, his wife, and the Winceks were seated in a car outside C. I. O. headquarters:

"Q. (By Mr. Lauter) At the time the shooting started, what did the occupants of your car do?

A. I told them to duck.

Q. Did they duck?

A. Yes I say they ducked . . . after the first volley was over, the people pretty well cleared the street in front of headquarters and it quieted down after the first volley, and . . . just as I raised up there was a tear gas bomb dropped about six feet ahead of my car and right away I hollered at Mr. and Mrs. Wincek to roll them windows up . . . and attempted to start and get away from there and just as I done that the second volley came and the second time I told them to duck and stay ducked and I went down myself and we laid there until the second volley was over and I said to Mr. Wincek 'We have got to get out of here one way or another' so I raised up high enough that I could see out with my left eye, and I put my car in low gear and

pulled up about eight feet, and I cut my wheels real short, and the third volley came and I didn't stop and I hit the car back of me and I back up the street all through the third volley and the third volley was over the minute I backed into the alley. I . . . went up the street in high speed . . . pretty near a block and I seen at least a dozen men standing around there . . . and I seen two men (Beckner and Hardesty) holding one man between them and somebody hollered 'Take this man to the hospital' . . . I stopped my car and I told my wife and Mr. and Mrs. Wincek to get out on the street in order that we would have room to take these men to the hospital. These two men were holding one man and we loaded this man in the back seat and one man . . . held this wounded man's head . . . There was the man got on the front seat and he said he got shot in his right shoulder . . . While we were driving up to the hospital this man lying on the back seat was moaning and suffering terribly. He said 'Boys, I am dying.' I rushed the man up to the hospital at high speed. We put him on the stretcher up there and took them up on the second floor on the elevator. I helped lift the man on the bed and pulled his pants off . . . And I rushed down to my car and beat it right back to where I left my wife and Mr. and Mrs. Wincek. When I got there, my wife and Mr. and Mrs. Wincek were not there. There were some other men standing there at the corner. Mr. Joe Morton picked up a tear gas shell that landed right on the corner there and up along the street. I was standing there looking at that and Mr. Wincek hollered up the street and said 'Hey Walt! I am up here.' So I went in my car and drove on up the street and I picked up my wife and Mr. and Mrs. Wincek.

Q. Do you know that the man you took in your

car who was lying in your back seat, died?

A. Yes. I went up to C. I. O. headquarters . . . the next day and some of the boys . . . told me 'you know that fellow you took to the hospital . . . Well, that fellow died this morning.'

Q. Will you describe the condition of your car after the shooting?

A. . . . The windshield was all shattered from being shot. I don't think there were any rifle shots or machine gun shots hit our car. It was practically all buckshot. It shattered . . . the body over the windshield and the body down along the sides of the windshield and both fenders. The left door window . . . was shattered . . . I counted ten shots that went through the radiator that landed back of the motor up against the dashboard . . .

Q. During all of the time that you were there did you see any shots come from C. I. O. headquarters?

A. No sir; none whatsoever. I didn't see no flashes, and I didn't see no shots, and I didn't see anybody whatsoever have a gun.

Q. Did you see anybody shooting except the police?

A. No sir."

Harry Jones testified that after the shooting began, "I laid down between the seat and the gear shift and the brake for maybe a minute or so, until I worked my body up onto the seat and kept my head down . . . I opened the door and got around on the rear bumper . . . While standing on the bumper, the gas shells and shots started flying and tears started rolling down my cheeks and I started feeling a little sick in my stomach. I got a foot braced and I made a leap. I ran from door to door until I got to the last building."

"Q. (by Mr. Lauter) Will you describe the con-

dition of your car?

A. There was a bullet hole through the windshield and a lot of buckshot in the windshield, a bullet hole through the right headlight, and the radiator on the inside was all full of holes and the outside where the buckshot hit is dinged and the hood on the left side is all spotted from where the buckshot hit and knocked the paint off."

All the foregoing witnesses have described the tactics of the police as they saw them from outside C. I. O. headquarters. John Veto, retreating from the door into the building, describes a scene of unparalleled horror. He testified that as the two police officers advanced up Cleveland Avenue and said "Let's bust them up, boys" they dropped flat. "Then a shot came by just where I was standing, right on from there near me, and I think there was a tear gas shell, because it hit the building and some pieces came inside the room there. As soon as when I heard that I turned around and went into the hall. And there was a table right there in the hall. When I was turning to dive under the table I had a sharp feeling right on my leg here. And I laid flat under the table. And I didn't get up to see what it was because if I went from there I could get hit on the head."

"Q. (by Mr. Lauter) You had been shot?

A. Yes . . . I was (under) the table laying flat for ten minutes . . . I heard a man from the outside say 'God! They're not blanks; they're bullets.' . . . Then when I heard that I crawled from the table and I went to the other room. And that room leads into the kitchen. And I went into the kitchen. And there five women and around seven or eight men . . . We waited there for a little bit and we shut the windows all around us . . . There was so much tear gas and the women were all choked up . . . We waited a little bit in the kitchen

there for about 15 or 20 minutes, I guess, and a man said 'I will go out and see what happened.'

Q. Why did he say that? Was the shooting still going on?

A. Yes. And I said 'All right. I will go with you.' He was going on from there and I was coming on back. And when he reached the door—

Q. What door?

A. The front door . . . that leads to the street. When he opened the door I saw a deputy sheriff shot at him right away while he was holding the knob of the door and the door was half opened and the deputy sheriff turned around and shot the guy right in the leg. He said 'God! I am hit.' When I heard that 'God, I am hit' I said 'Come on boys let's help these men out.' And two more men came and we helped him . . .

* * * * * *

And we carried the man into the kitchen and we laid him on the icebox . . . a low icebox . . . a woman went to get hot water to clean him. And by the time she came, the kitchen was all full of blood. There was blood all over the kitchen there coming from his leg . . . Then the woman washed him up and we let him go for a little bit. We heard a noise in there and we turned off the lights awhile, but the man he fell from the icebox on to the floor. And then we picked him up again. By the time we picked him up two women went to the door . . . to call for the ambulance. When they got to the door they were shot at twice, because when (they) came back they said 'Gosh, we have been shot at twice.' From that time on nobody went to the door anymore. We all sat behind there in the kitchen . . . Then the ambulance came . . . and we helped the men to carry him out on the stretcher. When we carried

him out, I said to the women there 'You women might as well get out from there'. Well, they got out. One of them, she crawled from the window . . . then the other one went out the front of the house.

Q. When did they go out the front room?

A. When the ambulance was there because that was the chance they had. Otherwise they would be shot and they couldn't get out.

Q. What did you do?

A. I helped the men put him in the ambulance and I went away too . . . I went on the sidewalk, and when I reached around 25 feet them police were hollering to 'Come back here! Come back here!' I turned around and I saw them hollering and I stumbled on a man lying on the street there . . . And I got up and ran away. And I reached the corner of Cleveland and McKinley Avenue there, and there was a bunch of men, I would say ten or eight men. They were talking together about helping the man lying on the street there . . . When they were near the man, the police shot and they hit one of those men . . . Then finally I went up McKinley Avenue . . . And I saw a lot of police. They were coming from toward McKinley Avenue. And I saw that and I kept going. When I reached the corner of Duncan Street and McKinley Avenue, there was . . . a car of special police and a bunch of men sitting on the ground. They were talking together. When that passed, they shot at those men. I ducked down behind a telephone post there.

Mr. Donald Wakefield Smith: How far was that from C. I. O. headquarters?

A. It was three blocks away from C. I. O. headquarters.

Q. (by Mr. Lauter) Now during all the time you were there, did you see any shooting from C. I. O.

headquarters?

A. No.

Q. Did you see any shooting from anyone except the police?

A. Just the police shot."

Wilbert Coleman, the occupant of the second floor, testified for the respondent that the glass windows in front of the building were smashed, that there were bullet holes inside the building, that tear gas was fired through the two front windows, and that because of the effects of the gas, his wife, his brother-in-law and mother then in his apartment, required treatment at the Republic Steel hospital.

To all of this testimony, the respondent replied with a plea, in effect, of self-defense, charging that the police opened fire only after several shots had been fired at the police from somewhere near the vicinity of C. I. O. headquarters.

Before examining the testimony of the witnesses for the respondent it is necessary to recapitulate the sequence of events immediately prior to the encounter as established up to this point:

(1) Shortly before 11 p. m. Harry Jones parked his car on the west side of Cleveland Avenue, almost directly across the street from C. I. O. headquarters, with its headlights shining on the regular and special police lined up on Cleveland Avenue 50 to 100 feet south of C. I. O. headquarters.

(2) Officer Fellabom armed with a loaded submachine gun was standing on the west side of Cleveland Avenue across the street from C. I. O. headquarters in the immediate vicinity of Jones' car.

(3) At approximately 11 p. m. Major Curley and

Special Officer Henderson advanced midway from the line of police toward C. I. O. headquarters.

(4) At the same moment Officer Fellabom fired two or more shots at the headlights of Jones' car.

(5) Almost immediately thereafter the police opened fire at C. I. O. headquarters.

With this summary, we turn to the testimony of the witnesses for the respondent. It is evident that the vital question at issue is the exact source of the shots which the respondent alleges precipitated the shooting by the police. Officer Ickes testified, "Cap Curley lined seven or eight of us, maybe six or seven I don't know, . . . us fellows that had the gas guns, across the road . . . about 100 feet south of C. I. O. hall on Cleveland Avenue . . . He said he was going over and tell those people to move, that it was late enough, that he was going to have them move off the street . . . break them up . . . Just as he started over there about halfway between the C. I. O. headquarters up the line, there was *four or five shots came out along in the vicinity of the C. I. O. headquarters.*[38] Stones started to fly . . . We started firing. I don't remember whether—I started firing gas shells over against the front end of the building . . . Well, we started to fire the gas shells, and after we shot some gas into them, they started to disappear somehow. There was still some across the street but not all of them. All of them didn't disappear but most of them did. They ran all over, I guess . . . A little while later, the Canton police arrived and they drove up through Cleveland Avenue with their armoured car and shot gas—what they needed to clear the street. That is all there was to it."

On cross-examination Ickes added that he saw Special Officer Henderson advance with Curley, that he did not see

38. Italics supplied.

anyone use a machine gun, and that he heard no other shots fired from the direction of C. I. O. headquarters except the four or five at the beginning, as Curley and Henderson had reached the point halfway up Cleveland Avenue.

Officer Kraft testified that he was standing about 100 feet south of the brick building on the west side of Cleveland Avenue ten yards west of the sidewalk. " . . . they got pretty noisy up there and Curley said something about breaking them up . . . and Curley started up toward . . . the crowd . . . and when he got about 50 feet from the crowd, four or five shots rang out and stones flew, they started shooting from both sides."

"Q. (by Mr. Pontius) Now you saw four or five shots fired. Where did they come from, did you observe?

A. *From the C. I. O. headquarters there some place.*[39]

Q. What if anything did you notice about any automobile coming up there on the street? . . .

A. Someone pulled up there with an automobile. He stopped there and turned the headlights on. He had the headlights on the police.

Q. Did that occur before Curley started up the street or after he started up the street?

A. Right about the same time.

Q. Did you hear any talk there with respect to those headlights?

A. I heard some one holler to turn them out. In front of the C. I. O. headquarters, he hollered to turn that light off."

Kraft on cross-examination testified with reference to the four or five shots as follows:

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39. Italics supplied.

"Q. (by Mr. Lauter) Where did you see the bullets come from?

A. C. I. O. headquarters.

Q. What part of the headquarters?

A. The front part, close to the entrance some place . . . kind of a cement porch in front there.

* * * * * *

Q. Do you mean the sidewalk?

A. Yes sir.

Q. And that is where the shots came from?

A. Up in there some place.

Q. From the sidewalk is that right?

A. I can't swear where, right the exact spot where they come from, but they come from in there some place.

Q. I am trying to find out . . . whether you know where they came from or not.

A. I heard them in that direction right in front of the—

Q. Did you hear them or see them?

A. I heard them.

Q. Were you facing the C. I. O. headquarters?

A. I was.

* * * * * *

Q. You didn't see where they came from at all?

A. I didn't see them, I heard the direction they came from."

Kraft also testified that he saw Fellabom earlier in the evening take the submachine out of the police car, and walk across the street, but did not see him shoot at the headlights.

Officer Kelley was among the group of police stationed 100 feet south of C. I. O. headquarters. He testified that "an automobile was driven up and parked on the west side of the street; the driver got out of the car, left the lights

burning. They were shining directly down the road and into our face and it was partially blinding us. Someone called for him to turn the lights out and the man had taken oh possibly three or four steps away from the car and he turned and went back and turned the lights off. And someone called out from the vicinity of C. I. O. headquarters, and he used a string of unprintable words and ordered this man to turn the lights back on and he immediately went back to the car and snapped the lights back on. Then with that Captain Curley started forward . . . to turn the lights off . . . and as he passed me, he told me to cover him . . . When he got up within oh approximately 15 feet of the automobile, why there was a volley of rocks thrown and some one fired *five shots from the revolver in the vicinity of the C. I. O. Hall.*[40] The shots were fired in rapid succession. And with the shots and the stones, the crowd surged forward and I released the tear gas shell about eight or twelve feet over their head . . . "

On cross-examination, Kelley testified:

"Q. (by Mr. Lauter) You testified about covering Major Curley at one point . . . Will you state when that was?

* * * * * *

A. Well it was prior to the start of the fight up there, just a minute, or within a few seconds rather.

Q. Was that the time that the headlight was shot out?

A. Yes sir."

Kelley then retracted his previous statement that Curley had gone forward in order to turn off the headlights.

"Q. He (Curley) said nothing about the lights?

A. Not to me.

Q. When were the lights shut off? Was that be-

40. Italics supplied.

fore the general shooting started?

A. Yes sir.

Q. Fellabom shot the lights out of that car before the shooting occurred?

A. *No.* Let me recall about that. *That was before the fracas.*

Q. Don't you know which statement is correct now?

A. The last one.

Q. The first statement was incorrect?

A. Yes, sir, I am sorry."

While this testimony confirms the testimony of witnesses for the Board with regard to the time at which Fellabom shot out the headlight we are satisfied from the manner in which Kelley answered the questions put by counsel for the Board, and from his testimony on direct examination, that Kelley did not see the shots which were fired by Fellabom at the same moment that Kelley claimed to have heard the five shots fired in rapid succession from the vicinity of C. I. O. headquarters. If Kelley's testimony on this point is to be credited at all, it indicates that he merely saw the lights from the headlight shut off.

It is evident from the testimony of these three officers that although they all appear to have been facing C. I. O. headquarters at a distance of approximately 100 feet when the four or five shots were fired, they could not fix the source of the shooting any more precisely than "out along in the vicinity of the C. I. O. headquarters", or "from the C. I. O. headquarters there some place" or "from the vicinity of the C. I. O. Hall." None of the three testified that they saw flashes or fire from a gun, and it appears from their further testimony that they merely heard the shots. Moreover, with the possible exception of Kelley, none of the three saw Fellabom, stationed directly across from C. I.

O. headquarters, fire his submachine gun at the headlight of Jones' car at approximately the same moment that they claim to have heard the four or five shots from "out along in the vicinity of C. I. O. headquarters." Kelley's testimony, as noted above, merely indicates that he saw the light shut off, but not that he saw Fellabom fire his submachine gun. Although the testimony of these three witnesses establishes the fact that certain shots were fired, it does not indicate that they were fired by the strikers rather than by Fellabom.

We turn next to the testimony of several of the respondent's employees who claim to have seen the firing from C. I. O. headquarters.

Orin Pauli testified that at 11 o'clock he and two fellow employees, whose shift ended at that hour, drove up to the respondent's main entrance or gatehouse, on their way out of the plant from work.[41] This entrance is located about 300 yards from C. I. O. headquarters. Pauli's car was fourth or fifth in line when the first car was stopped at the entrance by Republic Steel Police. "We drove up to the entrance, there they stopped us, they had started to shoot," he testified on direct examination "You could see the flash of the fire coming out . . . of C. I. O. Hall . . . I didn't see anything else, but we heard the bullets." On cross-examination, he stated that he was standing or "ducking" behind the car from the time the shooting started until after it was over, and again, that he was standing beside his car when he heard the first shot. Pauli also amplified his description of the shots by stating that he saw the flashing of guns from the front and side windows of C. I. O. head-

41. In his testimony on direct examination Pauli referred to Gate No. 1. A glance at the map (Respondent's Exhibit No. 1) will show that it would be almost impossible for anyone at the No. 1 gatehouse to observe the front of C. I. O. headquarters. On redirect examination, Pauli corrected his previous testimony and stated that he meant to refer to Gate No. 2, the main entrance.

quarters when the shooting first started.

It will be noted that there are two important discrepancies between Pauli's testimony on direct examination and his testimony on cross-examination. If he drove up to the entrance in his automobile and the shooting had already started, as he testified on direct examination, he could not have seen the first shots and could not have been standing behind or beside his automobile, as he testified on cross-examination. On cross-examination, confronted with this conflict, Pauli finally chose to reaffirm his second version.

In any event we consider his testimony unreliable. Standing approximately 300 yards away, behind four or five other cars, in the darkness of 11 o'clock at night, he claimed to have seen flashes from the front and side windows of C. I. O. headquarters, which not even the closest observer of all the witnesses for the respondent claimed to have seen. It is obvious that even if he did see flashes from guns, he could not at that distance have distinguished whether they came from Fellabom's machine gun or from C. I. O. headquarters.

Edward Lustig, a watchman employed by the respondent, testified that at approximately 11 o'clock he was standing at the window on the northeast corner of the respondent's main office building, about 400 feet from C. I. O. headquarters. "There was a man walked up the street toward the C. I. O. and he got part ways up there and I hear some noise and hollering and all at once why there was five shots fired from C. I. O. and this somebody hollered in the back for . . . somebody to come forward and they started to shoot this tear gas."

"Q. (by Mr. Pontius) Just tell us from where you saw the shots fired as you observed them.

A. Well right from the C. I. O. building, right from the sidewalk down—there was a man standing as

close as I could see from the distance I was away from him, and he fired five straight shots."

It will be noted that Lustig is the first witness for the respondent who claims to have seen any person firing the shots. All other witnesses observed only the flashes or the fire from the gun. On cross-examination, Lustig defined the man's position more closely. "It looked to me just like he was standing on the sidewalk when he fired this gun . . . just about eight or ten feet from the building . . . five shots in rapid succession."

In view of this testimony, more precise, with regard to the position of the person who fired, than that of any other witness, the following testimony on cross-examination is significant:

"Q. (by Mr. Lauter) Is your eyesight pretty good, Mr. Lustig, now?

* * * * * *

A. Pretty fair.

* * * * * *

Q. Can you see what time it is over there now?[42]

A. Yes.

Q. What time is it?

A. I think it is 20 minutes after 4.

Mr. Lauter: Let the record show—

The witness: Or three.

Mr. Lauter: —that it is twenty-five minutes after three.

The witness: After three, is it?"

Lustig also admitted that he was "kind of a little deaf, that is my ears" and had considerable difficulty in hearing the questions addressed to him at the hearing. We consider that these admissions render Lustig's testimony unreliable. If, as appears, his eyesight was poor and he

42. This reference is to the clock in the hearing room.

was hard of hearing, we doubt that at a distance of 400 feet at 11 o'clock at night he heard someone holler to come forward and saw what no other witness in the immediate vicinity was able to observe—a man standing on the sidewalk eight or ten feet from the C. I. O. headquarters fire five straight shots. At the very least, we believe that under these circumstances Lustig could not have distinguished whether the person firing the five shots in rapid succession was Fellabom with his machine gun across the street from C. I. O. headquarters or some other person among the strikers in front of C. I. O. headquarters.

Frank Swarm, a night watchman employed by the respondent, was standing at the window on the east end of the first floor of the district or main offices, at least 300 feet from C. I. O. headquarters. A few seconds after the 11 o'clock whistle had blown, he testified, he saw the fire from guns, from in front of C. I. O. headquarters, "five shots from the front of headquarters."

"Q. (by Mr. Pontius) Then what next did you see?

A. Well really leading up to the shooting, there was two men walked up Cleveland Avenue, in front of the headquarters, and they got right up near the headquarters and there was five shots fired. Two men dropped and they started back towards the police department they had strung across Cleveland Avenue. After the fifth shot was fired, the Massillon city police started to shoot tear gas."

After the Canton police arrived, Swarm continued, "there was another volley of firing; shooting started from up in front of the hall again."

On cross-examination, he testified with respect to the first volley of shots:

"Q. (by Mr. Lauter) Where did the shots come from?

A. In front of the C. I. O. headquarters . . . directly in front of the building . . .

Q. But you don't know whether it was from the doorway or the sidewalk?

A. I wouldn't be positive, no . . .

Q. But are you sure they didn't come from the steps of the building?

A. No, it wasn't that close."

With respect to the second volley of shots, he testified:

"Q. (by Mr. Lauter) Where did these shots come from?

A. From headquarters all around headquarters . . . right up in front . . . right in front of headquarters.

Q. In the doorway?

A. I couldn't say if it came from the doorway or not.

Q. Would you say it came from the sidewalk?

A. Either the sidewalk or the street."

Officer Ickes and Major Curley testified that the only shots during the entire evening that came from the vicinity of C. I. O. headquarters were the four or five shots at the very beginning, immediately preceding the firing of gas bombs by the police. Officer Johnson, who arrived at Cleveland Avenue shortly after the shooting had begun, testified that he saw no shots fired from C. I. O. headquarters at any time after 11 o'clock. Officer Fellabom testified that the only shooting from C. I. O. headquarters that he saw came from the doorway at 11 o'clock, and that, thereafter, from his position directly across the street from C. I. O. headquarters, he fired several rounds at the upstairs windows of other houses. This testimony by the respondent's witnesses indicates that the second volley came not from C. I. O. headquarters but from Fellabom's submachine gun. As noted above, however, Swarm identified both volleys as

having been fired from in front of C. I. O. headquarters. We think it clear that Swarm, standing at the east end of the main office building, was not in a position to distinguish whether the first volley came from Fellabom or from C. I. O. headquarters. The very fact, however, that Swarm identified both volleys as having been fired from the same spot indicates that the first volley, like the second, was fired from Fellabom's submachine gun.

The testimony of two other witnesses for the respondent lends support to this conclusion. Wilbert Coleman, the occupant of the rooms over the C. I. O. headquarters, testified that he heard the shooting but did not hear any shots come from the downstairs of the building. James Adams, a visitor at Coleman's apartment, testified that he saw a man on the west side of Cleveland Avenue on the sidewalk shooting a machine gun, that the first shots that were fired sounded as if they came from the west, from the street, directly in front of the building.

There remains to consider the testimony of Major Curley and Officer Fellabom who at relatively close range claim to have seen the flashes of the gun as it was fired. Of all the witnesses for the respondent, Fellabom tells the most circumstantial story of the events which followed. At many important points, however, his testimony differs from that of other witnesses both for the Board and for the respondent. He testified that immediately after the intoxicated man with a white shirt and a straw hat gave up his attempt to go through the police line, Curley walked up to the center of the street and shouted to C. I. O. headquarters, " 'A couple of you men take this man out of here before he starts to make trouble.' [43] I noticed this man walked to the doorway in the C. I. O. headquarters while Curley was standing there. Stones started to fly. I saw the fire

43. According to Curley and Ickes, this incident occurred at approximately 10:30 p. m.

flying off the bricks there. I saw one of these hand grenades—a gas bomb—I seen them flying off the stones. That gas bomb didn't any more hit the road when the shooting started out of the doorway."

"Q. (by Mr. Pontius) Now from your position could you see any guns from there?

A. I could see the flashes of the shooting. I couldn't see the guns . . . the fire was flying close from the top of the door. Just like someone was standing up and holding a gun and shooting down like that (indicating) I could see this much . . . just like someone was standing in the doorway and a gun held like that (indicating). I could see that much on the truck.

Trial Examiner Lindsay: You mean the gun was held up over his head?

A. Yes it was higher.

Trial Examiner Lindsay: Holding the gun up in the air? The shooting was down?

A. Yes.

Q. (by Mr. Pontius) With respect to this truck, where was the location of this firing?

A. It was right behind the truck.

Q. That is from where you stood?

A. Yes sir.

Q. Now, could you tell the direction in which these shots were fired?

A. They was coming toward our men. They were standing at an angle.

Q. From the position you were standing in at that time, could you see any part of the doorway, leading into the C. I. O. headquarters?

A. About two feet of it top and down.

Q. Now where in respect to the doorway did you see these flashes?

A. Close to the top.

Q. Were you able to distinguish any person there?

A. No, sir. It was a tarpaulin over this truck. It hid the view of the front. But I could see—all I could see was about two feet around in top of the road.

Q. Could you see the man holding his hand up there . . .

A. All I could see was this firing; this fire was flying close to the top of the door.

Q. Now what if anything did you do at that time?

A. I turned the machine gun loose on that shooting out of the door . . . I shot over in there and then stopped, and then the boys—the rest of them was all shooting in there, shooting gas. They was close to me and it got so noisy you couldn't hear yourself think."

Fellabom then described how he shot out one headlight of Harry Jones' car and explicitly testified that he did this just before the above-described events took place. Continuing, he testified that he first fired three times at the doorway, then "saw in the upstairs windows was flashes of shooting."

"Q. By upstairs windows, you mean what?

A. Toward the buildings along the street on the right hand side, on the east side of the road . . . "

On cross-examination, Fellabom stated that he was on the west side of the street across from C. I. O. headquarters, that "the first shot came out of the doorway of C. I. O. headquarters," and that he fired the second shot. As noted above, he then retracted his explicit testimony made on direct examination, that he had shot at the headlight just before shooting at the doorway, and asserted that he had waited approximately 35 minutes before shooting the headlight out. He remained firm in his assertion that there was no shooting other than the gas bomb before the shots came out of C. I. O. headquarters.

"Q. (by Mr. Lauter) You are absolutely sure that some police officer fired a gas bomb before any shooting from the C. I. O. headquarters.

A. Yes, sir. I saw it flying through the air. That is as true as I said it . . .

Q. I am asking you whether or not before the gas bomb was fired, the only action of any violent nature was the throwing of stones by some C. I. O. men, is that correct?

A. Yes, sir."

Fellabom also testified that the only shooting that he saw came from the doorway, at approximately 11 o'clock. Later he testified that he saw between 50 and 100 shots coming from the upstairs windows of the eight or ten buildings on the east side of Cleveland Avenue, and that he fired his machine gun several times at these windows. As noted above, Officer Ickes and Major Curley testified for the respondent that the only shots which they heard or saw from the vicinity of C. I. O. headquarters during the entire evening were the four or five shots *immediately preceding the firing of gas bombs by the police.* Thus Fellabom, whose view of the front of C. I. O. headquarters was almost totally obstructed by the tarpaulin-covered truck, claims to have seen flashes or a first shot fired, from the doorway after a gas bomb was fired, at a time when Ickes and Curley with an unobstructed view testified that all firing had ceased from the vicinity of C. I. O. headquarters. In addition, no witness, except Fellabom, testified that any shots were fired from the doorway. Fellabom's testimony on this point is not only at variance with the testimony of the witnesses for the Board, who testified that no shots were fired from the doorway or any other place in the immediate vicinity of C. I. O. headquarters, but also with the testimony of all the witnesses for the respondent who testified to the first shots. We think the evidence is over-

whelming that Fellabom's testimony to the effect that he saw flashes or a first shot from the top two feet of the doorway is not to be credited.

The salient part of Fellabom's testimony, however, relates to his consistent assertion that he saw a gas bomb fired by the police fly through the air and hit the road *before* he saw the "first shot" from the top two feet of the doorway of C. I. O. headquarters. Every other witness for the respondent, without exception, steadfastly asserted that the police fired gas bombs only *after* four or five shots were fired from some place, more or less definitely identified, in the vicinity of C. I. O. headquarters. This difference between the testimony of Fellabom and every other witness for the respondent is crucial. It indicates the police 100 feet south of C. I. O. headquarters opened fire after hearing the shots fired by Fellabom from his submachine gun in the belief that such shots were fired by the strikers.

Before summarizing the evidence in support of this conclusion, we turn to the testimony of Major Curley.

Curley testified that he was standing 100 feet south of C. I. O. headquarters among a group of special and regular police at 11 o'clock when "the crowd commenced to get larger at C. I. O. Hall and Kelley and Henderson and Fellabom and Ickes and I got our heads together and I said 'Don't you think it would be a pretty good idea to go up and tell those fellows that they will have to abide by the proclamation that was handed down by the Sheriff of Stark County.' . . . So I said 'We do not want to have any trouble here.' I said 'It would be a good idea to break it up.' So Henderson, he started forward, and he turned around and he said 'Come on Cap' and I said 'Hell, I ain't got any business up there. I am not deputized to go up in there.' And he said 'You are deputized now.' He says 'You are going right along up.' I says 'All right, if that

is the way you feel about it, I will go up and try to talk to the boys.' So we started forward . . . and I got about 50 feet ahead of where the officers were lined up . . . I was met with 'You God damn dirty sons of bitches' and bingo out came a bunch of rocks, clubs, stones and bingo five shots one right past my head."

"Q. (by Mr. Day) Who said this about the sons of bitches?

A. The men up around the C. I. O. Hall.

Q. And where did the rocks come from?

A. Around the C. I. O. Hall.

Q. Where did the shots come from?

A. From on the step of the—in front of the front door of the C. I. O. Hall.

Q. How many shots did you see?

A. Five.

Q. Could you give an opinion as to what kind of shots they were, or from what guns they were fired?

A. Yes, an automatic revolver . . . I immediately dropped to the ground and all hell broke loose . . . the firing started, I was lying on the ground. I don't know, I laid down. The firing then started from both sides and tear gas guns were going. Fellabom was back with a machine gun loaded with bird shot. He started that barking. The gas—that was fired for effect only."

We have already referred to Curley's testimony that Fellabom shot out the headlight of Jones' car, fifteen minutes after the shooting had begun, and found that the overwhelming weight of evidence was to the effect that the shooting occurred at the same moment that Curley and Henderson had reached the half way point in their advance toward C. I. O. headquarters. It will be noted that in the testimony cited above, Curley stated that Fellabom was among the special police 100 feet south of C. I. O. head-

quarters, at the time Curley began his advance. On cross-examination Curley modified this statement and testified that Fellabom was on the west side, on "the first tile building on Cleveland Avenue." Other evidence in the record indicates that this tile building is almost directly across the street from C. I. O. headquarters. It is therefore, clear that Fellabom was approximately 50 feet to the north west of Curley at the moment the five shots were allegedly fired from C. I. O. headquarters. With respect to these shots, Curley further testified:

"Q. (by Mr. Lauter) During the entire evening of July 11th, do you know how many shots were fired?

A. Five.

Q. How many shots did you see coming out?

A. Five out of the steps.

Q. Did you see some shots other than those five that night?

A. I didn't.

Q. Then a total number of shots you saw coming out of the C. I. O. headquarters was five?

A. That is right."

Upon the reliability of Curley's testimony that five shots were fired from in front of the front door of C. I. O. headquarters depends in large measure the respondent's plea of self defense. Of all the witnesses for the respondent he was the one nearest to C. I. O. headquarters, with a totally unobstructed view of the entrance and the crowd, and had the best opportunity to observe the acts of the strikers. We believe, however, that Curley's testimony on this decisive point is completely unreliable.

As one who purported to act as a public spirited citizen, he had exhibited an active bias in favor of the respondent. As one who in the absence of Chief Switter had assumed command of the police department and with such command

the responsibility for the acts of the regular and special police, he had a paramount interest in asserting that the strikers rather than the police were legally and morally liable for an encounter which resulted in the death of three strikers. This paramount interest and active bias run through his entire testimony.

We have already found that Curley's testimony with respect to the selection and bonding of the respondent's employees as special police is not to be credited. Similarly, Curley's testimony that he did not issue the orders which raised the guard at C. I. O. headquarters is flatly contradicted by the testimony of Chief Switter, Officer Kraft and Officer Fellabom, and is not to be credited.

Curley further testified that just before advancing toward C. I. O. headquarters, he was deputized, for the first time, by Special Officer Henderson, in the presence of Officers Kelley and Ickes. Kelley, however, testified that at this time Curley said nothing except that he was going forward. Ickes testified that Curley said nothing, as he began to advance, except that he was going to "break them up." Officer Kraft testified that he was in the line of police at this time and heard Curley say that he was going to break them up. Kraft did not mention any conversation between Henderson and Curley. Henderson was not called as a witness. Under these circumstances, in view of Curley's evident desire to give the color of legality to his actions, we consider his statement that he was deputized by Henderson to be a protective afterthought rather than a statement of fact. We believe that Curley's testimony on this point is not to be credited.

Finally, Curley testified that Fellabom shot out the headlight of Jones' car at 11:15 p. m. after the shooting elsewhere had begun. This testimony was flatly contradicted by a number of witnesses both for the Board and for

the respondent. Under the circumstances described above, we found that Curley's testimony on this decisive point was not to be credited.

In view of the complete unreliability of Curley's testimony on such major points, and his obvious bias and interest, we feel justified in refusing to credit his testimony with regard to the source of the five shots.

A number of other witnesses for the respondent testified that they heard shots fired, either at the beginning of the encounter, or during it, but none of these witnesses was able to fix the source of the shooting more precisely than "Cleveland Avenue," or "on the other side of the viaduct" or generally in the location of Cleveland and Oberlin Avenues. Some testified on direct examination to a number of shots coming from the crowd and on cross-examination admitted that they had not seen the shooting and did not know whether the police or other persons had fired the shots. A second group of witnesses testified that they saw flashes from cornfields, railroad tracks, and other places at some distance from C. I. O. headquarters. Both groups testified that they heard the shots come from all directions or from north to south or from the west to the east, or from the east to the west. It is obvious that such testimony proves little or nothing, except that there was a great deal of shooting taking place in and around the vicinity of C. I. O. headquarters from the time the encounter started until 11:30 or later. At least 20 police and an undetermined number of deputy sheriffs were engaged in shooting tear gas, guns, revolvers, and a machine gun in all directions on Cleveland Avenue. Other police east of Cleveland Avenue near the viaduct had shot revolvers and riot guns shortly before 11 p. m. The testimony of these witnesses, while indicating the wide extent of the shooting, proves nothing as to its source.

With this description of the incident at C. I. O. headquarters we turn to a concluding analysis and summary of the evidence.

For at least three quarters of an hour prior to the encounter, while an unarmed peaceful group of strikers and strike sympathizers were gathered at C. I. O. headquarters, engaging in their usual Sunday night pursuits of talking, changing pickets, playing music and dancing, 20 regular and special police, armed with clubs, revolvers, shotguns, gas equipment and a submachine gun, were lined up on Cleveland Avenue under instructions from Major Curley to expect trouble. We have analyzed and found without merit Curley's justification for his orders increasing and arming the police, and have examined and rejected the contention by the police that the crowd as a whole was other than peaceful. Even if we should credit in full the testimony of those officers who claimed to have heard threats against the police by one or two men in the crowd, it is apparent that under the circumstances described such threats were not taken seriously and that the strikers cannot be held responsible for the isolated utterances of one or two unidentified drunken persons who disappeared from the vicinity approximately half an hour before any violence occurred.

Shortly before 11 p. m., when Curley and Henderson, advancing up Cleveland Avenue from the line of police 100 feet south of C. I. O. headquarters, had reached a point midway between the police line and the strikers, Fellabom, standing on the west side of Cleveland Avenue, across from C. I. O. headquarters, fired several shots at the headlight of Harry Jones' car. Upon this point, as we have seen, the testimony is in conflict. We think, however, that the testimony of the witnesses for the Board, corroborated by the testimony of Officers Kraft and Kelley, far outweighs the testimony of Curley, which is unsupported except for the

self-contradictory testimony of Fellabom.

Immediately after Fellabom fired his submachine gun, the police opened fire on the strikers. Because of the darkness and the rapid succession of events, no one witness was able to observe more than a segment of this incident and what immediately followed. The whole, therefore, can be understood only by a synthesis of the pertinent testimony of a number of witnesses:

Beckner, standing on the steps of C. I. O. headquarters looking south, saw the shooting begin from a point in the immediate vicinity of Harry Jones' car, parked on the west side of Cleveland Avenue, across from C. I. O. headquarters, just at the moment that Henderson and Curley were approximately midway between the police and the crowd at headquarters. Beckner, however, did not see Fellabom fire at the headlight. Walter Meyer, whose car was parked directly across from C. I. O. headquarters, behind and slightly north of Harry Jones' car, heard Fellabom fire two shots at the headlights of Jones' car, but did not see Henderson and Curley. Adams, who was in Coleman's apartment on the floor above C. I. O. headquarters, heard the first shots fired from the west side of the street, in front of C. I. O. headquarters, approximately where Fellabom was standing. Swarm on the first floor of the respondent's district office building, saw a first and second volley of shots fired in front of C. I. O. headquarters. As noted above, Fellabom fired a second volley from his position on the west side of Cleveland Avenue across the street from C. I. O. headquarters, after all the alleged firing from C. I. O. headquarters had ceased. Swarm's testimony, therefore, indicates that the first volley, like the second, was fired by Fellabom.

Officers Ickes, Kelley, and Kraft, standing in the line of police 100 feet south of C. I. O. headqu .rters and facing

it, heard four or five shots in rapid succession from "out along in the vicinity of C. I. O. headquarters," but did not see the shots and did not see Fellabom fire his submachine gun. They testify that immediately after hearing the four or five shots, they fired gas projectiles from their gas guns. Swarm testified that after the fifth shot was fired, the police started to shoot tear gas. Fellabom, however, asserted that the police fired gas bombs at the strikers before a first shot was fired from C. I. O. headquarters. Assuming that with relation to the sequence of the four or five shots and the gas bombs, these witnesses are telling the truth, the discrepancy between the testimony of Swarm and the officers south of C. I. O. headquarters and that of Fellabom across the street from the crowd, can only be explained by the fact that Fellabom first fired his submachine gun at the headlights of Harry Jones' car, that Ickes, Kelley, and Kraft and other police officers, hearing these shots in the vicinity of C. I. O. headquarters, fired their gas guns and other guns at the crowd, and that Fellabom, seeing the gas bombs flying through the air, opened fire at C. I. O. headquarters with his submachine gun. Thus, all those present, except Fellabom, heard Fellabom's shots as shots from the strikers and Fellabom seeing the police open fire, continued to shoot his submachine gun. We regard Fellabom's contradictory testimony on this point as an attempt to confuse the issue and thereby avoid responsibility for the incident which touched off the encounter.

In view of the fact that witnesses to a sudden shooting are notoriously inaccurate as to certain details, we regard the discrepancy between the number of shots reported by Meyer and those reported by the witnesses for the respondent as unimportant. Several witnesses for the respondent testified that the shots were fired in rapid succession, thus indicating the probability that the shots came from a machine gun and that any estimate of the number of

shots is at best an approximation. Jones' testimony that there was a bullet hole in his right headlight and another through his windshield, while lending support to Meyer's version of two shots, is inconclusive, since there were a number of other holes in the radiator of Jones' car, and it is obviously impossible to know whether every shot fired from Fellabom's machine gun registered on Jones' car.

Fellabom's testimony that he used only bird shot in the submachine gun is contradicted by the testimony that there was a bullet hole in the right headlight of Jones' car, which Fellabom admitted having shot out with his submachine gun. Moreover, although Curley would not state what ammunition Fellabom used that night, he testified that the usual equipment for the machine gun was three magazines of regular 45 bullets and three of 45 birdshot.

In sum, the testimony of these witnesses with regard to the source, time and nature of the first shots which provoked the shooting by the police indicates that they were fired by Fellabom standing across the street from C. I. O. headquarters.

Four witnesses for the respondent, however, claim to have seen flashes of shooting or shots from an unidentified person at some other point. With regard to the same four or five shots—and these are the only shots alleged to have been fired from C. I. O. headquarters—Curley claimed to have seen five shots fired from in front of the front steps of C. I. O. headquarters; Pauli claimed to have seen the flashing of guns from the front and side windows of C. I. O. headquarters; Fellabom claimed to have seen a first shot or flashes from a gun fired from the top two feet of the doorway of C. I. O. headquarters; and Lustig claimed to have seen five shots fired by a man standing on the sidewalk eight or ten feet from the building. For reasons already indicated, we believe their testimony is either false or in-

credible. As against these contradictory assertions, three witnesses for the Board—Beckner, Hardesty, and Veto—who were standing in or near the doorway of C. I. O. headquarters at the time in question, denied that any shots were fired by the strikers from the doorway or any other place in the vicinity of C. I. O. headquarters; and Wilbert Coleman, the occupant of the second floor, testified that he heard no shots from downstairs in the building. We regard it as significant, although not conclusive, that up to the very moment of the encounter, no witness claimed to have seen any person in the crowd of strikers with any weapon, and that after the encounter, the police found no weapons, except Jones' pocket knife, on the person or in the possession of the 165 men arrested.

From the whole record, we find that the police, armed and forewarned by Curley to expect trouble, and made restless by the sound of shooting from the viaduct, opened fire at C. I. O. headquarters immediately after Fellabom fired his submachine gun; that the shots which the police heard and attributed to the strikers were in fact the shots fired by Fellabom; and that no shots were fired by the strikers.

We turn now for a moment to the respondent's contention that the strikers had assembled at C. I. O. headquarters with a preconceived plan to rush the police, enter the mill, and remove the employees who had returned to work. This contention rests largely upon the testimony of Officers Moore and Kraft.

Moore testified that at about 4 p. m. on July 10, while he was on duty with Officer Kraft, and Special Officers Hodge and Henderson, one Mike Rudak emerged from C. I. O. headquarters, approached the car in which the officers were sitting and said, "You officers had better watch, they are coming down and get you. I am a friend of the police."

Moore stated that Rudak then walked back to C. I. O. headquarters, spoke to several fellows, and was shoved out into the street, from which Moore picked him up and took him to jail. "You could tell from the way he talked," Moore added, "that he had had a few drinks." Thereafter, Moore told the other officers, "You had better watch out a little bit."

Officer Kraft testified that between 6 and 6:30 p. m. on July 11, while he was on duty with Special Officers Henderson and Kriger, a man called "Humpy" walked out of C. I. O. headquarters, approached the post where the officers were stationed and said, "You better get out . . . big trouble tonight, 11 o'clock. Between 500 and 1000 coming down. They will kill all of the police and go into the mill and get the slabs." "He couldn't say 'scabs,'" Kraft testified. "He said 'slabs.' That is all he said to us fellows. He turned around and went back up to C. I. O. headquarters." Kraft also stated that "Humpy" had had a couple of drinks. Kraft further testified that when he reported this incident to Curley, Curley said he would send more men to that post.

Both of these stories are apparently versions of the same incident. We regard them both, if true, as without significance. Apart from the differences in the specific language attributed to Rudak or "Humpy" and the discrepancy in the date and the time of day on which the statements are alleged to have been made, it should be noted that Curley's testimony contains no reference to any such warning as that reported by Kraft, but was limited specifically to rumors which he had received as a result of the meeting of the strikers at Oak Knoll Park, that afternoon. Furthermore, Switter testified that before he left Massillon at 9:30 p. m. on July 11, he had heard no rumors of any kind with regard to any threatened activities by the strikers. If Mike Rudak was arrested on July 10, it is clear that

Switter would have been informed of his alleged threats, had they been regarded as sufficiently serious to warrant action; and similarly if "Humpy" had informed three officers between 6 and 6:30 p. m. on July 11 of a plot to kill the police, it is reasonable to suppose that Switter, who at that time was still in charge of the police department, would have been notified or that Curley would have mentioned it in his testimony. Moreover, there is no evidence that any of the regular or special police, except the six regularly assigned there, reported to C. I. O. headquarters that night upon their own initiative as a result of these or any other rumors. As noted above, they were all instructed to report there by Curley; and it is clear that these threats were not the basis for Curley's orders.

Switter testified that upon his return to Massillon Curley had stated that he raised the guard at C. I. O. headquarters "because he got rumors from a source he did not want to disclose that the pickets were going to crash the line and stop them from going into the mill at the 11 o'clock shift." At the hearing on July 21, 1937, Switter testified that Curley had not yet told him the source of the rumors which caused him to raise the guard. Since Curley testified to no rumors except those which he had received from the Oak Knoll Park meeting, and Switter had heard no rumors at all, we are inclined to believe that this statement to Switter was merely Curley's *ad hoc* explanation to justify the results which followed his countermanding of Switter's orders.

Officer Moore testified that on July 10, one Burke, a former captain of the picket post, in a conversation with Moore and Special Officer Hodge had stated, "They will know who is running this God damn show in 48 hours." Wilbert Coleman, an employee of the respondent, who occupied the second floor of the house in which the Union had

established its headquarters, testified that at about 7:15 p. m. on July 11, he saw men whom he could not identify picking in the ground with flashlights and a stick and carrying stones toward the front of the building. Robert Adams, a plasterer, whose son was employed by the respondent, testified that between 6 and 7 p. m. on July 11, he overheard a "red-headed American" tell Mark Turkey, a member of the union, "'You keep your men out and we'll keep ours out' . . . I heard Mr. Turkey said 'Well, I will never be out.' He said 'You get yours out.' He said, 'We will get ours out.' . . . this American fellow said 'I feel sorry for the colored fellow, but the damn niggers have got it coming to them. If they get killed they will just have to take it.'" He testified that shortly after the first shooting was over "a car came up around the corner and stopped and they got out and my neighbor hollered and asked 'What is going on down there?' One fellow says 'They are having hell down there.' He says 'Anybody hurt?' He says 'Yes, we killed two of them damned city cops.' He said 'How do you know.' He said 'We saw them fall.' So this other fellow got out of the car and he walked up to another fellow and says 'You fellows are from Canton. Aren't you?' He said 'Yes.' 'Well you had better get the hell out of here before they get up here' and another fellow . . . said 'Is that thing in the car?' He said 'Yes.' 'Well,' he says 'You had better get it out of here because they are liable to break through up here at any time.' And the fellow in the car got out and he says 'Did you see Joe?' He said 'No.' 'Well,' he says 'we ought to find Joe.' They did not call no last names and my daughter was asking me. I says . . . 'Who is that fellow got out of the machine.' She says 'Tony Dimando. That is the only one I know.'"[44]

In the light of the events which took place before C. I. O. headquarters, these sensational but vague statements,

44. Dimando was not further identified.

anonymous rumors, and acts by unidentified persons, freely attributed to the strikers, carry no weight. In the first place, since Burke's statement, the incident described by Coleman, and the remarks of the "red headed American" were not reported to Curley, they cannot be considered as a basis for his orders. In the second place, it is undisputed that the crowd at C. I. O. headquarters made no attempt whatsoever to rush the police, enter the mill, and remove the employees who had returned to work. On the contrary, at the first shots, the strikers fled in panic. With 20 regular and special police already lined up across Cleveland Avenue, armed with every weapon in the possession of the police department, and an undetermined number of deputy sheriffs in the vicinity, ready at a moment's notice to drive up in cars loaded with tear gas, such an attempt by an unarmed crowd of 200 people, including women and children, would obviously have been suicidal. Not only was no such attempt ever made, but the president of the Massillon lodge and the vice president of the Canton lodge of the S. W. O. C., noting the ominous attitude of the police, were on the point of telling the crowd to go home, when the police opened fire. In the third place, no police were killed, wounded, or even injured, except by the fumes of their own tear gas. The strikers were the victims, not the aggressors, in an unprovoked attack.

After midnight, as soon as the Canton police in their armoured car had cleared the streets of people in the vicinity of C. I. O. headquarters, a "mopping up" squad of special police and deputy sheriffs, led by foreman and special police officer William Henderson, broke into rooming houses near Cleveland Avenue occupied by members of the Union, arrested 165 men, and, with the assistance of the National Guard, hauled them to jail.

At 2 a. m. on the morning of July 12, John Angelo, a striker who lived on the second floor of a three-story room-

ing house on McKinley Avenue, a block and a half from C. I. O. headquarters, was awakened by a noise which shook the house, "hollering and breaking doors in the building." Two deputy sheriffs entered his room, thrust guns against his chest, hit him with a black jack, and threw him into the hall. Other armed deputy sheriffs roved through the hallways, crying, "Now, you rats, we have got you," and routed out the other occupants of the house. Fifteen or 20 roomers, most of them barefoot and half clad, including one woman, were taken downstairs and lined up outside the building. Other men from neighboring rooming houses were searched and added to the line-up. Angelo testified that Special Officer Henderson in the company of several other special police officers, then asked, "How many C. I. O.'s are here and lift up your hands." Half to three-quarters of an hour later, 10 or 12 of these men were loaded into a National Guard truck, taken to the Massillon City Jail and then to the Canton Jail, where they were photographed and fingerprinted. After 2 days in the Canton Jail, Angelo, with a number of other men, was returned to Massillon, where he signed a waiver of his right to sue the city of Massillon and was released. He testified that when the deputy sheriffs entered his room, they showed him no warrant of arrest.

Christ Conzas, a striker, who occupied another room in the same rooming house, from his window observed the police enter houses on McKinley Avenue and heard doors breaking in his building. A short time later, two of ers with guns and a flashlight broke down the door of his room searched the room, and ordered him downstairs. There, he recognized Bill Henderson, the foreman for whom he had worked in the mill, and entreated Henderson to release him. "You belong to the C. I. O.," said Henderson, "and you have to go down." Other men were taken out from other houses "some of them without shoes, some without

clothes, some without dresses, some without shirts." Conzas with the others was taken in a National Guard truck to the Massillon Jail, where he remained until Tuesday, July 13, 1937. Conzas was shown no warrant of arrest by the officers who broke down the door to his room.

Mark Turkey, a member of the C. I. O., who lived with his wife and three children in a rooming house on Fourth Street, about three and a half blocks from C. I. O. headquarters, was awakened by his wife at five minutes of three. Half dressed, he went to the kitchen where several deputy sheriffs, armed with a revolver and a shotgun, who had broken open the house door, asked for his guns and ammunition. When Turkey replied that he had none, they pushed him upstairs, ordered four men who occupied rooms there out of the building, tore up the beds and mattresses as they searched the rooms, broke into a trunk, where Turkey's son kept a stamp collection, and ordered Turkey downstairs to wait for his "bus." A few moments later Turkey and the four roomers were loaded into a National Guard truck and taken to jail, in Canton, where they were photographed and fingerprinted. Turkey remained in jail at Canton until 4 p. m. Wednesday, July 14, 1937, when he was removed to the Massillon jail and released after signing a waiver. Turkey testified that when the deputy sheriffs broke into his house, they asked him whether he was a member of the C. I. O. but did not show him any warrant of arrest.

A total of about 165 men, all of them apparently members of the Union, were thus arrested and placed in jail. Hardman, who returned to Massillon after the shooting and conducted their examination, testified that none of the 165 had been shown warrants, that all had been arrested at places other than the scene of the riot by special police officers, deputy sheriffs, and National Guardsmen, and that although most of the men had been released from jail by

Thursday, about four were still held, at that time, four days after the shooting. He also testified that of the 165, only one (Harry Jones) was charged with carrying any kind of weapon.[45]

We come, finally, to the question of whether the respondent is responsible for the events we have described. From a careful examination of the record, we think that the answer is plain. As early as June 9, Carl Myers, the respondent's Acting District Manager, had attempted to persuade Chief Switter to use violence against the strikers, "to take such action as the Chicago police did and put them where they belonged"; "they knew how to handle the situation if we did not." On that day Myers donated to the Massillon police department for "any situation which might arise," the gas and gas equipment which was used by the police against the strikers on July 11. On June 13, after the meeting of the Chamber of Commerce in which the members of the Law and Order League had praised the Monroe police for smashing the picket line at the respondent's plant at Monroe, Michigan, Carl Myers again urged the Massillon city officials to use violence against the strikers: "It was a funny thing that a little town like Monroe could build up a police department big enough to get their mill operating again and control the situation and it was damn funny we couldn't do anything." In a pamphlet issued by the respondent during the strike, entitled "*What the Editors are saying about the Republic Strike—Reprinted by Republic Steel Corporation,*" the respondent set its seal of approval upon the actions of

> "the Monroe police, and the American Legionnaires and voluntary police who aided them and stand with them. They have performed a healthful public service and they deserve high commendation and support . . . These men have used forceful methods, but no

45. As stated above Jones was carrying a pocket knife.

more forceful than necessity demanded . . . They simply are undertaking to uphold American law, order, and individual liberties . . ."

As described above, the respondent through Chief Accountant Angstadt and Superintendent Peppard, the members of the Law and Order League, and the Back-to-Work movement succeeded in exerting such pressure upon the city officials that, against their better judgment, they finally agreed to accept Curley's assistance and swear in as special police officers at least 32 of the respondent's employees, including foreman Henderson. That these special police officers were not disposed to be neutral was a fact generally known in Massillon. Of the 66 candidates which Peppard, Angstadt and Beckner had submitted to the city officials on the morning of July 9, 29 had signed the Back-to-Work petition, as had 19 of the 32 men chosen by Major Curley. With regard to the temper of the members of the Back-to-Work movement, the Reverend Hess, a witness for the respondent, testified, "From my most sober judgment I am positively of the opinion that if we had not had the police there on the night of the riot that we might have had not two men killed but maybe 50 or 100 or more killed . . . My reason is this, contacts that I had had with men, the Back-to-Work men . . . that they were in no temper to stand any more . . . I testify that it was my judgment, taking the balance of two factors in the situation, from all sides, that we would have been staggering for this whole country, if we had not had the police there."

The Reverend Hess was not aware that, at the time of the encounter, five of the respondent's employees, who had signed the Back-to-Work petition, who had been bonded by the respondent, and who had been warned by Curley to expect trouble, were special police officers whom Curley had armed and stationed in the vicinity of C. I. O. headquarters. The respondent called none of these five as witnesses nor the

three other employees who were special police officers present during the incident.

Apart from their connection with the Back-to-Work movement, the respondent's employees who were appointed as special police officers were obviously not impartial. It will be remembered that Hardman and Switter had reviewed the 66 names submitted by Peppard and Angstadt and had rejected most of them as too excitable, and that General Marlin had waived any question as to the fitness of the respondent's employees for the police force by stating that it was no time for neutral men.

Thus, prior to the encounter, the respondent had armed the police force with its gas equipment, staffed it with a foreman and 31 other employees, many of whom belonged to a group bitterly opposed to the strike, and had urged violence against the strikers. In addition, the respondent had approved, if it had not actually connived at, the appointment of Major Curley whose activities we have already found were conducted in the interest of and on behalf of the respondent.

These acts of the respondent achieve further significance in the light of a hitherto undescribed event which occurred on July 11. John Veto testified that at 5 o'clock that afternoon, as he was returning to his home by way of Cleveland Avenue, near C. I. O. headquarters, he passed within three feet of two special police officers, seated on chairs with their backs to the mill, and heard one of them say, "We are going to clean them up tonight." Veto testified that the man who spoke turned around, "and I recognized him as Bill Henderson, a chipper foreman in the mill . . . He said 'Where is your picket card' and I said 'I didn't have any because I am not on duty.'" Veto also testified that the other special officer did not turn around and that he did not recognize him.

To rebut this testimony, the respondent's counsel asked Officer Kraft:

> "Q. (by Mr. Pontius) During that afternoon I will ask you whether Mr. Henderson said to you—that is, this special officer Mr. Henderson, about five o'clock in the afternoon said to you this, or this in substance: 'That we are going to clean them up tonight?'
>
> A. He never said nothing like that to me."

Kraft, however, testified that on that afternoon there were three officers detailed to and present at this post: himself, and Special Officers Henderson and Kriger.[46] It will be remembered that Veto testified that he did not recognize Henderson's companion. It is obvious, therefore, that Kraft's denial that Henderson "never said nothing like that to me" does not preclude Henderson's having made the statement to Kriger. We regard it as material that the respondent called neither Henderson nor Kriger as a witness and made no showing as to the unavailability of either.

At 9:30 p. m., after Switter and Hardman had left Massillon, Curley countermanded Switter's orders, raised and armed the guard at C. I. O. headquarters, and directed Fellabom to a post across the street from the strikers, with instructions to use his submachine gun. At approximately 11 p. m. when Curley and Henderson took it upon themselves to induce the crowd of strikers to go home, for no other avowed reason except that there were too many of them, Fellabom, pursuant to Curley's authority, used his submachine gun and shot out the headlight of Jones' car. As noted above, these shots were the overt act which precipitated the shooting by the other police officers.

After shooting about 25 tear gas projectiles, Officer Moore sent Gray, one of the respondent's foremen, to the

46. Kriger, like Henderson, is an employee of the respondent for whose bond the respondent was billed.

Union Drawn Steel Company for more gas. Between 11:15 and 11:30 p. m., Curley telephoned from the respondent's main office to the Union Drawn Steel Company for more gas, and dispatched a police cruiser which returned with at least 25 cartridges of tear gas. Of the gas thus donated by the respondent prior to and during the encounter, Curley, Ickes, Moore, and Kelley testified that they fired a total of 158 gas projectiles or bombs at the strikers during the evening and that other special and regular police threw or fired an undetermined number of gas bombs or projectiles. The fury of the attack upon the strikers, led by Curley and Henderson, is matched only by the thoroughness of the round-up, led by Henderson, in which all persons within a radius of three or more blocks from C. I. O. headquarters were arrested without warrants and incarcerated for several days, for the crime, apparently, of belonging to the Union.

We are of the opinion, from an examination of all the facts, that if Curley had not seized the opportunity when Switter had left Massillon, to take command of the police force, to increase and arm the guard in front of C. I. O. headquarters, and to instruct the regular and special police to expect trouble, the attack upon the strikers would never have occurred. That Fellabom's shooting at the headlight touched off the attack may have been a tragic accident; but it is clear that, if Curley had not issued his unauthorized orders, neither Fellabom nor 13 of the other police would even have been present at C. I. O. headquarters on the evening of July 11. The attack was led by Curley, the respondent's agent, and by Henderson, its foreman; at least eight of the respondent's employees as special police officers were present at or participated in the attack; all the gas and gas equipment for the attack was supplied by the respondent. The respondent had publicly approved the use of violence against strikers by the police of Chicago and Monroe and had urged the Chief of Police of Massillon to

follow the example of the police of those cities. When Switter left Massillon, Henderson was overheard to say, "We are going to clean them up tonight." From the whole record we find that the respondent is responsible for the attack upon the strikers.

B. Canton

Of the respondent's plants in Canton, two are directly involved in this proceeding: The Canton Works (Central Alloy District) which employs between 5,000 and 6,000 employees; and a tin plate mill, employing approximately 650 employees, which the respondent acquired on July 1, 1936, from the Canton Tin Plate Corporation.

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1. *The Plan of Employee Representation—(Central Alloy District) Canton Works*

The Plan of Employee Representation was introduced at the Canton Works in June 1933 and, with minor amendments made in 1934, remained in operation until April 1937, after the decisions of the Supreme Court upholding the constitutionality of the Act. Thereafter, it was succeeded, as in Massillon, by the Employees' Representation Association, which lasted until July 1937, when the Employee Representatives, who had been active in both the Plan and the Association, formed a new organization, the Steel Workers Union of America, which purported to be independent of the respondent. The formation and activities of the Association and the Steel Workers Union will be discussed hereafter.

The Plan at the Canton Works, as it existed until the latter part of April 1937, was substantially the same in structure and operation as the Plan at the Massillon Works.

It is therefore unnecessary to describe it at length. It is sufficient to state that the respondent formulated and introduced the Plan, without submitting it to a vote of its employees; that throughout the existence of the Plan the respondent paid the Employee Representatives for attending meetings, during and after working hours, as well as for handling grievances; and that, down to the most minute item, the respondent defrayed all the expenses and furnished all the facilities for the operation of the Plan.

From the whole record, we find that the respondent has dominated and interfered with the formation and administration of the Plan of Employee Representation (Central Alloy District) Canton Works and has contributed financial and other support to it.

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2. *The Plan of Representation of Employees—Tin Plate Mill*

In August 1933 the Canton Tin Plate Corporation, then under independent ownership, inaugurated the Plan of Representation of Employees in its tin plate mill. After July 1, 1936, when the respondent purchased the mill, it continued this Plan in effect unchanged until April 30, 1937. With slight variations, this Plan substantially resembled the Plan at the Massillon Works. Neither at the time of its inauguration nor subsequently was it submitted to a vote of the employees. After July 1, 1936, the respondent continued to pay the Employee Representatives a dollar an hour for time spent during and after working hours at regular and special meetings, and continued to defray all expenses and furnish all facilities for the operation of this Plan.

On April 30, 1937, the respondent announced that in view of the Supreme Court decisions upholding the consti-

tutionality of the Act, it would cease to pay the Employee Representatives. The Employee Representatives then sought to resign and discontinue the Plan, but on the solicitation of Sam Davey, then superintendent of the mill, decided to remain until the end of their term. At a regular meeting of the Employee Representatives on May 8, 1937, Sam Davey introduced Frank Geltz, Chairman of the General Body of Employee Representatives under the Plan and of the Association at the Canton Works, who explained the purposes of the Association and sought to enlist the support of the Employee Representatives. No action was taken on this proposal. In August, 1937, according to Edward Kirkland, Secretary of the Plan, when the fiscal year of the Plan ended, no plans had been made for its continuation, because "we never asked the officials of the Republic Steel Corporation whether or not they wanted to continue the Plan."

From the whole record, we find that the respondent has dominated and interfered with the administration of the Plan of Representation of Employees at its tin plate mill, and has contributed financial and other support to it.

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3. *Events preceding the strike*

On July 2, 1936, shortly after the Union had begun its campaign to organize the employees in the Canton-Massillon Area, the respondent issued its statement, described above, announcing that "Republic stands for the 'Open Shop' principle . . . Every Republic employee owes a duty of loyalty to the Company so that its best interests may be served. Conduct detrimental to the interests of the Company and which may disrupt the satisfactory relations between employees and management will not be tolerated."

The circumstances surrounding the discharge of Victor

Arias on August 2, 1936, serve to illustrate the method by which the respondent at this time sought to give effect to this policy. Arias had been continuously employed by the respondent since 1927, except for several weeks in May 1935 when he took part in a strike at the respondent's Berger Manufacturing Company plant. When he applied for reinstatement, superintendent Ellaser told him he had been active during the strike and "that is bad on your card." Several weeks later, in June 1935, Arias was reinstated. At that time, his foreman, David Carnes, offered him a job as a checker if he would report the activities of the men. Arias refused.

In July 1936 Arias joined the C. I. O. and was the first organizer in the Canton area. As such, he assisted Howard Porter and the other outside organizers sent to the Canton-Massillon district. It will be remembered that these organizers were given permanent shadows in the form of Long and McCallister, plant policemen at the Union Drawn Steel Company, whose special business it was to follow them. In the latter part of July, Arias conducted meetings on farms and obtained 25 applications for membership and signed up eight members for the union. On August 9, when he returned from a week's vacation, he was told to stay home, that he would be called when needed. "Why are they holding me out?" he asked Graham, assistant to superintendent Ellaser, "is it anything concerning my work?" "No," replied Graham, "Not that I know of. There are activities that you are in that I don't know about or exactly what it is." Superintendent Ellaser informed him: "Vic, you are in Dutch. I don't think I can do anything for you." Arias pleaded his long service with the respondent, his satisfactory work, his necessity to support his parents. Ellaser replied, "I am sorry. I can't do anything for you."

Arias then left Canton in search of a job. In April

1937, upon his return, he met Frank Geltz, Chairman of the General Body of Employee Representatives under the Plan, who offered to help him. Geltz, however, was unsuccessful. He reported that he had seen Ellaser who said that Arias had a company police record, and that Ake, the employment manager, had told him that on his record Arias talked too much.

During his nine years' employment by the respondent, Arias had received at least three promotions; at the time of his discharge he was an inspector in charge of the chipping bed, earning approximately 90 cents an hour. Since his discharge on August 2, 1936, his total earnings, up to August 11, 1937, have been $164.40. He has not received regular and substantially equivalent employment elsewhere. Although the respondent in its answer denied that Arias was discharged because of his union activities, it produced no witnesses and offered no evidence to rebut Arias' testimony.

We think it clear that the respondent discharged Victor Arias for the reason that he joined and assisted the Union. We find that the respondent, by this act, discriminated against Victor Arias in regard to hire and tenure of employment, thereby discouraging membership in a labor organization.

Having thus plainly warned its employees that it was prepared to enforce its statement of July 2, the respondent took further repressive steps to halt the growth of the Union. At the Canton Works and the tin plate mill, its activities paralleled those already described at the Massillon Works. Employees were called together at safety meetings once or twice a month, where a superintendent and foreman repeatedly extolled the virtues of the Plan and threatened employees with the loss of their jobs if they joined the "outside" union; employees were asked by a

superintendent to sign petitions that they were satisfied with the Plan and were informed that the C. I. O. would never succeed; active union members were cajoled by supervisory employees not to waste their time passing out handbills, admonished to watch their step, and warned to stop trying to organize; a superintendent spoke with approval of a pamphlet which appeared in the plant, purporting to show that the C. I. O. was a revolutionary organization, controlled from Moscow, whose ultimate purpose was to overthrow the government of the United States by force and violence.[47]

On March 5, 1937, the respondent published its statement of open-shop policy in the newspapers, as described above. Carl Myers read the statement to the General Body of Employee Representatives, to whom he promised the same degree of cooperation from the management that they had received in the past. Besides Arias, three employees, whose cases we discuss below, were discharged for union activities at about this time.

Despite these acts of interference and coercion by the respondent, the Union continued to grow. On February 1, 1937, All Nations Lodge No. 1200 was established in Canton for the employees of the Canton Works and the tin plate mill. A number of the Employee Representatives joined the Union, and in certain departments of the plant the Union claimed to have achieved a membership of a large majority of the employees.

In the tin plate mill, where the Union claimed a membership of approximately 90 per cent, the respondent sought to coerce its employees to leave the Union by repeated threats to close the plant. Kenneth Poorman, a member of the Union, testified that in October 1936 at a safety meet-

47. *Join the C. I. O. and Help Build a Soviet America*, published by the Constitutional Educational League, Inc., New Haven, Connecticut.

ing in the tin plate mill, James Davey, then operating superintendent of the mill, informed the employees that "this is an old and obsolete mill. The Warren mill is of a newer type . . . If we stay out of labor trouble this can be the mill to operate." Although Davey denied having used the specific language attributed to him on this occasion, we are not impressed with his denial. He admitted having told employees on another occasion that the mill was old and obsolete and that he hoped they would stay out of labor troubles. And even from Davey's own studied and evasive account of his remarks at the October safety meeting it is clear that the employees could reasonably have taken away only one impression—that the respondent would shut down the mill if they joined the C. I. O.

In January 1937 Superintendent Thomas approached Homer Downerd, president of Lodge No. 1200, and asked him why he had become so active in organized labor. According to Downerd, Thomas said, " 'Do you think you are doing right?' and I said 'Yes, I think I have as much right to belong to organized labor as anyone else has.' And he said 'Do you know what you are going to do?' and I said 'Yes, I do. We are going to put this organization across' and he said 'No, I will tell you what you are going to do—you are going to eventually shut down this plant and that will put not only me, but everyone else out of work and unless you quit, you will shut down the tin plate plant.' "

In February 1937 Superintendent Thomas saw Martin Beckner, vice president of Lodge No. 1200, passing out handbills near the Canton Works. "Beckner," said Thomas, "you do not seem to be the same sort of a fellow, the kind of fellow that would be messing around with a bunch of radicals." "I told him," Beckner testified, "that I did not realize that I was a radical and he said, 'Don't you realize that Republic Steel will be closed down and won't operate any more?' "

On May 5 a notice appeared on the bulletin board at the tin plate mill announcing that the mill would be shut down until further notice, and that employees should call Thomas later in the week and find out when operations were to be resumed. The tin plate mill remained closed until May 24, the day before the strike. It appears that the production at the mill during April and May in terms of gross tons was as follows: For the week beginning April 5, 541; April 12, 888; April 19, 609; April 26, 921; May 3, 315; May 10, 0; May 17, 0; May 24, 650. Samuel Davey, then superintendent of the Canton Tin Plate Division, testified that there was no production for the weeks of May 10 and May 17 chiefly because a strike had been called at the plant of the Canton Enamelling and Stamping Company on April 29, at which time all orders from that company ceased, and that the respondent had in process or finished at that time approximately 1400 tons in the plant, equivalent to two weeks' work.

This ostensible reason for the shut-down is vitiated, however, by reference to a number of events which occurred before and after May 5, when the shut-down was announced. On May 8 Beckner telephoned Superintendent Thomas and asked when the mill would start up. "He told me," Beckner testified, "he did not believe the mills would start up until we got rid of that union." During the strike at the respondent's plants in Canton, Thomas told Beckner, " 'It looks like the Tin Plate had made a mistake. The rest of the mill is going to resume but I do not think the Tin Plate will ever resume again.' And he felt it was all the fault of the men organizing because we had 90 per cent of the organization at that time." Since the respondent did not call Thomas as a witness and made no showing as to his unavailability, these and the earlier threats stand uncontradicted.

Furthermore, the respondent was in the sole possession

of proof in support of its allegation that a decrease in orders caused the shut-down. We are not satisfied that, in view of the circumstances described above, it has supplied an adequate business reason for its conduct. It has not shown the amount or relative size of the orders of the Canton Enamelling and Stamping Company nor how long the strike there lasted, nor precisely to what extent that strike caused a decrease in orders.

In weighing the evidence upon this point, we also take into account the fact that, at this time, the respondent's Canton and Massillon plants were both under the supervision of Carl Myers, Acting District Manager for the one region; and that the shut-down on May 20 of the Massillon Works was caused, not for the business reasons alleged by the respondent, but for the purpose of intimidating and coercing the employees.

It will be remembered that on May 3 Clinton Golden, Regional Director for the S. W. O. C., wired the respondent that widespread unrest prevailed among its employees over the uncertainty of the respondent's position regarding a signed collective bargaining contract. that this unrest had been accentuated by the lay-off of several hundred union members at the Canton and Massillon Works, and that the Union urgently requested a conference to negotiate a signed, written contract. It thus appears that on May 5 the respondent gave a double answer to the union; Voss replied to Golden that he saw no necessity for a signed contract, but was willing to arrange a conference; Davey shut down the tin plate mill, a stronghold of the Union, and locked out all but the maintenance employees.[48]

48. The respondent in its brief apparently contends that no complete lock-out was ever carried out, in that 50 per cent of the men remained at work after May 10. However, Davey testified that when working the tin plate mill employed between 640 and 680 employees; that at the time of the shut-down (May 5) there were 570 employees; that about 50 per cent of the employees, in the finishing departments, "remained at work on the shut-

From the whole record we find that the respondent shut down its tin plate mill at Canton and locked out almost all its employees for the purpose of intimidating and coercing them not to join or to discontinue their membership in the Union. The respondent, by the foregoing acts, discriminated against its employees with respect to hire and tenure of employment, thereby discouraging membership in a labor organization, and interfered with, restrained and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act.

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4. *The Employees' Representative Association*

After the decisions of the Supreme Court on April 12, 1937, the General Body of Employee Representatives met on several occasions in the Canton Works on company time to discuss the formation, dues, and constitution of a new organization to succeed the Plan. The precise date upon which this organization—the Employees' Representative Association—was formed does not appear. The record does show, however, that on April 24 Joseph Cox, an Employee Representative, signed a membership card in the Association and with other Employee Representatives began to solicit membership for the Association in the plant on company time.[49] On April 28, according to the minutes of a special meeting of the General Body of Employee Representatives of the Plan, "the proposed amendments to the bylaws were again reviewed and it is the feeling of the General Body that no further changes should be made at this time." These amended "bylaws"—the amendments adopted April 22, 1937, referred to above[50]—became the

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down"; and that when operations finally ceased on May 10, there was a complete shut-down, except for maintenance-men.

49. The signatures of the Chairman and Secretary of the General Body of Employee Representatives under the Plan are affixed to this card as Chairman and Secretary of the Association.

50. See Section A, 3.

constitution of the Association. The respondent's participation in the formulation of these amendments, and its modified control of the operations of the organization under them, have already been discussed. At the same meeting on April 28 a treasurer was elected and Representatives assigned to committees.[51] A motion was carried that dues were to be temporarily waived and "some other method of raising finances, possibly through a raffle, should be used." At the conclusion of the meeting a "force report," or schedule, covering the time spent in the meeting by the Employee Representatives, was prepared, according to which the Employee Representatives were to be compensated by the respondent. Thus, as in Massillon, the new organization was, except in name, virtually identical with the old.

As in Massillon, the respondent gave the Association a free hand to organize opposition to the Union. Frank Cutshall, a member of the Union, testified that on May 16 or 17 he was notified by his foreman to attend a meeting in the bar mill at the Canton Works. "They were going to close down the department and everybody was to go over and we was to be paid for the time we would be over there at the meeting. They said they were holding these meetings for each particular turn, the three turns. At one o'clock they blew the whistle and the crane men, the chippers, the grinders and everybody employed in the plant, or practically so, attended. The whole department was shut down." Dan Allen, an Employee Representative, announced to the 400 assembled employees that "they were forming a union for the employees of this division of Republic Steel and they did not want any outside union. They wanted to make preparations if a strike was called to meet up near the square and make a rush for it and go down in a body . . .

51. The office of Treasurer did not exist under the Plan, and apparently was the only office in the Association for which an election was held. As noted above, the Chairman and Secretary under the Plan remained as Chairman and Secretary under the Association.

They were anticipating the strike. They asked approval of . . . some of the men in this group." Cutshall testified that he was paid for the time spent at this meeting.

On May 20, about 300 foremen and chippers at the Canton Works were notified to quit work to attend a meeting in the plant. Sammy Stokes, one of the chippers, testified that William Dunn, an Employee Representative, announced that "he was calling this meeting to explain this union plan to them, and he told the fellows that the company was expecting a strike and he wanted them all to sign a paper that they will work . . . and when the strike was called they should meet at the public square and they would prepare a way for them to go into the mill. And so he said 'I am going to pass out these blank pieces of paper and I want you to sign them.' " Stokes testified that he was paid for his attendance at this meeting. Cutshall, who also attended this meeting, testified that Dunn announced that the purpose of the meeting was to form an employee union for the Canton Works alone, in order not to "mix into any more troubles"; that Dunn handed out a copy of the pamphlet previously referred to, "Join the C. I. O. and Help Build a Soviet America"; and that Employee Representative Allen launched into an attack upon John L. Lewis.

From the whole record, we find that the respondent has dominated and interfered with the formation and administration of the Employees' Representative Association and has contributed financial and other support to it.

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5. *The Strike*

Although the events at Canton are not set forth in the record in such detail as those at Massillon, the testimony indicates that the respondent pursued a similar course in mobilizing its forces to break the strike. The following

narrative is summarized largely from the testimony of witnesses for the respondent.

On or about May 18 superintendent Cornell told foreman Kuhns that the management intended to operate the plant in the event that the strike was called, and that he wanted the employees in the plant before it started. At 4:45 p. m. on May 25 Cornell called Kuhns to his office, told him there was to be "a meeting of the C. I. O. and it looked very much as though a strike was going to be pulled," and instructed him to have the employees come to the plant by 9 o'clock. On the night of May 25, when the strike was called, trucks arrived at the plant loaded with cots. Under the inducement of a bonus, free meals, and 16 hours' pay for 8 hours' work, a number of employees ate, lived, and slept in the plant from May 25 until July 1.

At 7 p. m. on May 25, before the strike was called, 12 Employee Representatives, including Frank Geltz, Ray Lilly, Dan Allen, and other active members of the Association, met in the assembly room of the respondent's Industrial Relations Building at the Canton Works. In previous discussions this group had decided that if the strike was called they would form a back-to-work movement and seek to have a vote conducted under their auspices among the employees at the Canton Works on the question of whether the employees wished to return to work or to continue on strike. At this meeting plans were made to hold the vote in the City Auditorium on Thursday, May 27. At 8:30 p. m. the group conferred with plant superintendent B. R. Richardson, who expressed his approval of their proposed activities. At 11 p. m. the strike was called and the group retired to two rooms at the Belden Hotel in Canton, which thereafter served as the headquarters for its activities.

Within a few days this committee, augmented by a

number of other Employee Representatives, undertook to patrol the city, armed with shotguns, allegedly to protect the homes of non-strikers. On several occasions it held meetings of employees who wished to return to work, and conferred with the mayor of Canton with regard to its demands. On June 10 T. K. Harris of the Canton Law and Order League, said of the Back-to-Work movement, "It is becoming more difficult to keep them from taking the law into their own hands." [52]

As noted above, on or about July 5, a few days before the National Guard were withdrawn from the Canton-Massillon area, 56 of the respondent's employees were bonded by the respondent and sworn in as private police officers of the City of Canton. Of the 56, one, B. R. Richardson, was a plant superintendent, another, Russell Horn, was a supervisory official and at least three were members of the Back-to-Work Committee.

Most, if not all, the expenses of the Back-to-Work Committee were defrayed by the respondent. J. G. "Monk" Stewart, a supervisor of the guards, spokesman of the Back-to-Work Committee, and a roller in the mill with 10 or 12 men under him, testified that from May 25 until July 2, when the National Guard arrived, he received from the respondent for his work a total of approximately $500, calculated on the basis of his regular pay of $28 a day. Other members of the Committee testified that during this period they were paid approximately one and three quarters times their regular pay, or, in some instances, a bonus of $25 a week in addition to their regular pay. None of the witnesses for the respondent claimed to know who paid for the rooms at the Belden Hotel, although all admitted that no funds were collected by the Committee. It appears that Carl Lappin, an Employee Representative who acted as

52. What the Editors are Saying About the Republic Strike—reprinted by Republic Steel Corporation, from *The Canton Repository* of June 10, 1937.

paymaster to the Committee for the respondent, rented the rooms in his own name.

Since employees participated in the Back-to-Work Committee and since it existed in part, if not wholly, for the purpose of dealing with the respondent concerning a labor dispute, it is a labor organization within the meaning of the Act. From the whole record, we find that the respondent has dominated and interfered with the formation and administration of the Back-to-Work Committee and has contributed financial and other support to it.

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6. *The Steel Workers Union of America*

On July 13, approximately two weeks after the plants had reopened, a number of the members of the Back-to-Work Committee whom the respondent had paid for acting as guards met at "Monk" Stewart's home to discuss the formation of an organization. Several days later Frank Geltz, Chairman of the Association, told Stewart that the former Employee Representatives, whose terms had expired in June, were also considering forming a new organization. After one preliminary meeting of the two groups, a formal meeting was held on June 20 in the Belden Hotel, where Stewart was elected temporary Chairman; Lilly, Secretary; and Geltz, Treasurer. On the following day, at a meeting in the Belden Hotel with Attorney Frank Bow, the name "Steel Workers Union of America" was selected, application cards drawn up, and chairmen of organization committees appointed. Although at the time of the hearing on September 15 no constitution or bylaws had yet been adopted, and no membership meeting had been held, Stewart testified that all employees at the Canton Works, except supervisory employees and police, were eligible for membership and that of 3900 eligible employees, between 2500 and 2700 had signed application cards for membership.

Notices announcing the formation of the organization were posted in the plant; and members of the organization committees collected dues, initiation fees, and signatures to membership cards in the plant during working hours.

It is clear from the record that the Steel Workers Union, like the Independent Association at Massillon, was merely the successor to the Plan, the Association, and the Back-to-Work Committee, and still the creature of the respondent. Its officers were the officers of the predecessor organizations and its active members were former Employee Representatives or members of the Back-to-Work Committee. It received the same favors from the respondent as had the precedessor organizations. An organization with such antecedents, formed under such conditions, necessarily could not represent the free choice of the employees.

From the whole record, we find that the respondent has dominated and interfered with the formation and administration of the Steel Workers Union of America and has contributed support to it.

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7. *The discharges*

The complaint, as amended, alleges that three other employees at the Canton Works, besides Victor Arias, were discriminatorily discharged. The record shows that all three were discharged or laid off by superintendent Hopkins. We take up their cases in chronological order.

Mike Ugranovich. Ugranovich, a member of the union, had been employed by the respondent since 1934 as a grinder in the billet sheds. In 1935 he participated in the strike at the respondent's Berger Manufacturing Company plant. He testified that when he returned to work after that strike Edward Hopkins, superintendent of the billet sheds, "fired

him off the job" for about a month, saying, "You got a job on the picket line and I cannot use you any more." Ugranovich then applied for his job to superintendent Baxter, who, in the presence of Hopkins, asked Ugranovich whether he had been on the picket line "and he asked me 'How long have you been in this country?' and I told him 'About 20 years' and he said 'Are you still crazy . . . I will give you your job back if you do not do that anymore' . . . He told me I would have to stick with the company."

In December 1936 and January 1937 Ugranovich attended a number of safety meetings in the plant, at one of which, he testified, superintendent Hopkins said, "Don't belong to the outside union. You got to stick with the company union. . . . If I find any more men (belong to the) outside (union), he cannot work for me." Ugranovich testified that on February 11, 1937, he was summoned to superintendent Hopkins' office where Hopkins said, "You have got some slow work, five and six weeks on a job. . . . Don't you mind that strike in 1935. . . . I give you a chance that time and still now there is something else outside, some kind of a name, C. I. O.—and you are in it already." Ugranovich was then discharged.

The Respondent contends that Ugranovich was discharged on February 8, 1937, not for his union activities, but because he came to work in an intoxicated condition. Superintendent Hopkins testified that, although he himself had not seen Ugranovich in a intoxicated condition, foreman Eichelberger reported to him that at midnight both he and the grinder boss had smelled alcohol on Ugranovich's breath and had sent him home with instructions to return in the morning, and that at 9 o'clock the next morning Hopkins had laid him off indefinitely because he had come to work intoxicated. "He tried to tell me that he was not intoxicated. I told him he was because my two foremen had told me that." Hopkins also denied some, but not all,

of the statements attributed to him by Ugranovich. He denied that he had mentioned the C. I. O. to Ugranovich at the time he discharged him or said that his work was slow, but asserted, on the contrary, that in his opinion Ugranovich was a capable worker and not slow.

Eugene George a grinder foreman, testified that at 12 o'clock on February 8, when Ugranovich reported for work, he smelt a strong odor of liquor on the man's breath, noticed that the surface of the steel on which Ugranovich was working had circular instead of horizontal marks, reported to foreman Eichelberger that Ugranovich was in no condition to work, and saw Ugranovich leave with a wobbly step. George added that he told Eichelberger that Ugranovich had a habit of laying off on pay day, that he had spoken to Ugranovich once or twice before about coming to work with liquor on his breath, and that he now recommended him for a discharge. Eichelberger confirmed George's testimony and asserted that Ugranovich was apparently under the influence of liquor, that his work was being done in an improper manner, and that when Ugranovich left he walked in an uncertain condition.

Ugranovich, however, denied that he had come to work intoxicated or that he had been given that reason for his discharge; denied that he had been warned about coming to work intoxicated before, or that he had a habit of laying off for two or three days after pay day; admitted that the tool which he used had made circular instead of horizontal marks on the surface of the steel, but explained that the fault was due to another grinder in failing to have the required number of belts on the machine. Ugranovich also asserted that he had been "off booze for 28 months and never touched it."

In this conflicting state of the evidence it is instructive to consider the respondent's policy, as stated by George,

Eichelberger, and Hopkins, with regard to men who come to work in an intoxicated condition. George testified that Hopkins had personally instructed him to send a man home if he came to work in an intoxicated condition, that he had observed hundreds of men in the mill with liquor on their breath and on certain occasions had himself come to the mill with liquor on his breath, but that he disciplined an employee by sending him home only if the liquor on his breath was very strong or the man wobbled. George also testified that of the hundreds of men whom he had observed with liquor on their breath, Ugranovich was the only one who wobbled and whom he reported. Eichelberger testified that the general policy of the company was that so long as a man could work safely and was not intoxicated to the extent that he wobbled, no matter how strong the odor of liquor on his breath, he was not sent home. Eichelberger also testified that he could not remember having recommended discharge of any of the hundreds of employees who had come to work with liquor on their breaths, but claimed in the past eleven years to have recommended some men for two or three day layoff because of liquor on their breaths. Hopkins testified that he sends an employee home but does not discharge him for his first offense in wobbling, and that even if he had smelled liquor on his breath a couple of times and he was wobbly he would lay him off for two or three days, but would not discharge him.

It thus appears that even if Ugranovich was intoxicated when he came to work, which he denies, and had come to work once or twice before with liquor on his breath, which he also denies, the normal procedure would have been to reprimand and discipline him with a two or three day layoff instead of discharging him. Despite the respondent's policy, however, he was discharged, and, according to George, was the only man ever to have been discharged under the "wobbling" rule. In view of Hopkins' state-

ment to Ugranovich at the time of his discharge, which is only partially denied, and certain of his other antiunion remarks, which are not denied, we are satisfied that Ugranovich was discharged not for his alleged intoxication but because he joined and assisted the union.

Ugranovich has not received substantially equivalent and regular employment elsewhere. At the time of the hearing he had earned approximately $111 since his discharge.

Will S. Wright. During a strike in 1922 at the Canton Works, then owned by the United Alloy Company, one Ake, superintendent of employment for the United Alloy and later for the respondent, hired Will S. Wright as a strikebreaker, promising him that "if you stick with the Company, you will have preference for a job as long as you do not do anything out of the way with the Company." After working three months, Wright left the employ of United Alloy and worked elsewhere until 1933, when he was employed by the respondent as a chipper. In May 1935 Wright took part in the strike at the respondent's Berger Manufacturing Company plant. After this strike, when Wright applied for and was denied reinstatement, he testified that superintendent Hopkins told him, "Bill if you want to work here, you have to stick with the Company. You cannot have one foot over here and one over there and expect the Company to stick with you." In the early part of 1936 Wright was offered help in getting his job back by one Williams, a chipper employed by the respondent, whom Wright characterized as a "snitcher for the Company." Pursuant to Williams' instructions, Wright went to Ake, superintendent of employment, who gave him a note to Hopkins. Wright testified that Hopkins offered him a job if he would stick with the Company. Wright accepted.

After returning to work, Wright attended numerous

safety meetings in the plant where superintendent Hopkins, foreman Johnston, and "Charlie, the bed foreman," on occasion told the employees, "You don't want to mess around with no outside union, because if you want to work, you cannot be tied up with no union." In the early part of 1937 Wright was asked by Beckner to join the C. I. O. Williams advised him, "If you aint signed, you better not sign, because the damn C. I. O. aint no good, if you want your job." Several weeks later Beckner again asked Wright in Williams' presence to sign a membership card. "Williams sneaked out," Wright testified, "and, about two days after that (on April 27).... I was called into Mr. Hopkins office." Hopkins informed Wright and other employees who were present that new men were being laid off in order to give the older men more hours. Wright stayed after the others had left and reminded Hopkins that he had been employed in 1922 and that Ake had promised him preference. Hopkins replied that he had told Wright that if he wanted to work for the Company, he had to stay on the right side of the fence and could not have one foot over here and one over there, and that Ake was "not running the show." "I told him," Wright testified, " 'I am on the right side of the fence when I work.' And he said 'You are not dumb, you know what I mean.' " Wright also testified that some of the chippers who were not laid off had less seniority than he.

The respondent contends that Wright was laid off with a number of other chippers, without discrimination, for purely business reasons. Hopkins testified that because of the lack of tonnage the respondent decided to lay off 37 chippers; that Wright was thirty-fourth in length of service, and was laid off in regular order; that the respondent's policy with regard to seniority was that if a man was laid off for 30 days or more, while there was work available, his seniority rights were lost; that Wright had been laid

off on May 22, 1935, 6 days before the Berger strike and had returned to work sometime in 1936; and that with this lay-off Wright had lost the seniority rights which had accrued to him since his employment in 1933.

On cross-examination, however, Hopkins contradicted his earlier testimony with regard to the respondent's seniority policy, by stating that if an employee were laid off for more than 30 days, he would not lose his seniority rights. On this basis, it appears that Wright was entitled to credit for approximately two years' service, and that when he was laid off on April 27, 1937, the regular order of seniority was not followed.

Although Hopkins denied all of the statements attributed to him by Wright, we are convinced that his denials are not to be credited. The respondent had pointedly warned its employees in its statement of July 2, 1936, that it would not tolerate "conduct detrimental to the interests of the Company and which may disrupt the satisfactory relations between employees and management." On March 5, 1937, after publishing the respondent's statement of its open shop policy in the newspapers, Carl Myers had summoned the Employee Representatives to a meeting at which he repeated the respondent's statement of July 2, 1936. The record contains uncontradicted testimony that other superintendents and foremen had warned employees not to join the union under threat of loss of their jobs. Moreover, although Hopkins denied having made the statements at safety meetings attributed to him by Wright, he admitted that he could not recall what he had said. Ugranovich's testimony with regard to certain of Hopkins' antiunion statements is undenied. Under these circumstances we are of the opinion that Wright was laid off on April 27, 1937, because he had joined or was suspected of having joined the union.

Wright has not earned any money since April 27, 1937.

Sabri Shaban. Shaban was first employed by the respondent as a chipper from June 1933 until March 1934, when he left the respondent's employ for a visit to the "old country." In October 1936, upon his return, he applied to superintendent Hopkins for his former job. He testified that Hopkins asked him, " 'You belong to a union?' and I say 'No' 'If somebody go on the road and stop you . . . what are you going to say?' And I just figure and I sit two or three minutes. . . . He said 'What are you going to say to me now?' I say 'I know I no have to sign my name because I am hungry.' He said 'If you listen to me that way, I am going to give you a job right now.' And he gave me a job."

On or about April 23, 1937, Shaban went to work with a copy of the "Steel Worker," apparently a union newspaper, in his back pocket. Shaban testified that Hopkins saw the paper, pulled it from Shaban's pocket, and said " 'Why you no listen to me when I say I would give you a job.' And he throw away that paper and didn't say nothing that time. In three or four days he called me in the office and he say 'You no listen to me that time when I was talking to you and I give you a job and you belong to the C. I. O. now.' " Shaban was then laid off. He testified that many chippers hired with him on October 25, 1936, and others with less seniority were not laid off.

The respondent contends that Shaban, like Wright, was laid off on April 27 without discrimination, according to its policy of seniority. Hopkins testified that of the 37 chippers to be laid off Shaban was twentieth on the list, and that in determining Shaban's seniority he had counted the period from October 1936 to April 1937 and not the nine-month period in 1934 and 1935 when Shaban had worked for the respondent, in accordance with the respondent's

seniority policy of cancelling rights which had accrued from former service, after a lay-off of 30 or more days. In view of Hopkins later admission that an employee did not lose his seniority rights after such a lay-off, it appears that Shaban would be entitled to credit for his service in 1934 and 1935, even apart from his claim that men hired on or after October 1936 were not laid off. Although Hopkins denied all statements and acts attributed to him by Shaban, we do not find his denials convincing for the reasons cited in our discussion of Wright's discharge.

We find that Shaban was laid off on April 27, 1937, because he was suspected of having joined the Union. Shortly after his lay-off, Shaban worked for approximately 4 days at the Canton Culvert Company, owned by the respondent, where he earned $25, his total earnings since April 27.

The cumulative testimony of Ugranovich, Wright, and Shaban, although denied in whole or part by Hopkins, satisfies us that Hopkins followed a policy of questioning employees on their union affiliations, and of discharging them or laying them off for real or suspected membership in the Union.

We find that the respondent has discriminated against Mike Ugranovich, Will S. Wright, and Sabri Shaban in regard to hire and tenure of employment, thereby discouraging membership in a labor organization.

C. Youngstown

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1. *The Plan of Employee Representation*

The Plan of Employee Representation in the Youngstown District was adopted in June 1933 and slightly re-

vised in June 1934 and March 1937. On April 19, 1937, at a special meeting of the General Body of the Employee Representatives, McCoy, the Management Representative, announced that the respondent would withdraw financial support from the Plan. Shortly thereafter, the Employee Representatives formed the "Employee Representation Plan" which purported to be financially independent of the respondent, supplied themselves with membership cards, and launched a membership campaign. On May 19, 1937, the Independent Federation of Republic Employees, herein called the Federation, was organized by the Employee Representatives for the dual purpose of lending support to the "new" Plan and taking measures to prevent the strike. Immediately after the strike was called and during the strike, the Federation sponsored the Back-to-Work movement and solicited signatures to back-to-work petitions. Thereafter, the Federation was combined with the Plan and a constitution and bylaws were adopted which purported to establish the Federation as a collective bargaining agency for the employees. The formation and activities of the "new" Plan and the Federation will be discussed hereafter.

The Plan at Youngstown, as it existed until April 19, 1937, was substantially indentical in structure and operation with the Plan in Massillon. It is therefore unnecessary to describe it at length. It is sufficient to point out certain circumstances and incidents which attest to its domination by the respondent.

The Plan was introduced and fostered by the respondent. Its adoption was never submitted to a vote of the employees, although the preamble to the March 1937 edition of the bylaws states that the Plan "has been adopted by the employees and the Company for the purpose of collective bargaining." John Guest, one of the Employee Representatives, testified that he was first apprised

of the Plan in June 1933 when the foreman of his department handed him a copy of the bylaws and he saw posters announcing that the Plan would be put into effect and that, pursuant to it, nominations and elections of representatives would take place.

All the expenses involved in the conduct of the Plan were defrayed by the respondent, and all the necessary facilities were furnished by it. The Employee Representatives were reimbursed by the respondent not only for time lost during working hours but also for any additional time spent in attending meetings and performing other work in connection with the Plan.

In spite of the provisions in the bylaws that nominations and elections shall be "so conducted as to avoid influence or interference with voters," the evidence indicates that even the election campaigns were not always free from at least indirect participation by the management. Thus in the 1935 elections for Representatives, Joseph O'Hara, who opposed the reelection of John Guest, was granted permission by the foreman to leave his work and go around soliciting votes among the employees. Such permission was not given to Guest.

The testimony of Ralph Mondora, one of the Employee Representatives, shows that, at least in some instances, Employee Representatives were more concerned with the remuneration they received for their services than with promoting the interests of their constituents. Mondora admitted having lost interest in the Plan after the respondent announced its withdrawal of financial support. He testified, "We tried it and got to a point that there wasn't no funds, and we quit; I quit it as I wasn't going to use my time representing anybody, so I dropped out."

The futility of the Plan stemming from the respondent's control is strikingly illustrated by the operation of the

Joint Committees and the Joint Appeals Committee, Joint Committee No. 4, which were composed of five Employee Representatives and five Company Representatives. The submission for adjustment of grievances to Joint Committee No. 2, in charge of wages, employment, schedules and working conditions, generally resulted in a five to five vote. The same result ensued upon an appeal to the Joint Appeals Committee. Such a deadlock generally ended the dispute and, in effect, constituted a decision against the employees. It is further significant that even at the first annual meeting of Joint Committee No. 2, when officers were being elected, repeated balloting for chairman resulted in a five to five tie. The Employee Representatives finally conceded the chairmanship to the management.

Numerous provisions in the bylaws of the Plan reflected management control. Typical were the provisions requiring the approval of the Management Representative for holding special meetings of the committees, and the consent of the management in order to put the question of the dissolution of the Plan before the employees at an annual election.

At a number of meetings of the General Body, the Employee Representatives themselves signified their dissatisfaction with the Plan and leveled criticism against its operation. Thus at a regular meeting held on February 25, 1937, the General Body voted its protest against the methods used by some superintendents and foremen in calling in employees who had asked an Employee Representative to act for them, and requested that they be restrained from doing so unless with the consent and in the presence of the Representative.

At a special meeting held on March 15, 1937, the General Body discussed the sentiments of the employees relative to the Plan and recommended the following:

"1. A change in the Plan whereby it would not

be dominated by the Management.

"2. A small fee of 25c of monthly dues and the right to use the check-off system to make the Plan self-supporting.

"3. The elimination of Nos. 2 and 4 Joint Committees, as has been proven nothing but tie votes are ever counted in those meetings.

"4. The right to hold meetings with the men they represent . . .

"6. When agreements are made, that they be made in writing and not orally.

"7. The right to recall Representatives.

"8. That when a case is presented to Management, to speed it up and not carry it over a lengthy period of time . . .

"10. The right of the Employee Representatives to hold a meeting and to have the employees who they represent cast a ballot as to their choice of the Plan—whether or not they wish to continue, or to have the check-off system of a monthly fee."

These proposals were submitted to the management at the meeting of the Central Council of Employee Representatives which was held in Cleveland on March 18, 1937. The policy of the management announced at the meeting was thereafter reported to the General Body at a meeting held on March 25, 1937. The management indicated that there was a possibility of eliminating Joint Committees Nos. 2 and 4, that it would give permission to Employee Representatives to hold meetings with their constituents, that it would grant the right to recall Employee Representatives, and that it would endeavor to speed up cases as much as possible. The management categorically refused to enter

into any written agreement and to give permission to use the check-off system for dues. Significantly, the management was silent on the question of eliminating its domination over the Plan and of determining by secret ballot whether the employees desired the continuance of the Plan.

On the record as a whole, we find that the respondent has dominated and interfered with the formation and administration of the Plan of Employee Representation at its Youngstown District, and has contributed financial and other support to it.

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2. *Events preceding the strike; formation of the "new" Plan and the Federation*

The organizational activities of the S. W. O. C. in the Youngstown District began in July or August 1936. At some time thereafter, headquarters were set up in the Terminal Building, and Republic Lodge 1331 was established. Commencing in October or November, meetings were held first in Truck Drivers' Hall and then in the Roumanian Hall.

Surveillance of the meetings by company police began almost immediately. Joseph Gallagher, one of the first employees of the respondent to join the S. W. O. C., testified that whenever a meeting was scheduled, company police were present outside the meeting hall. Particularly conspicuous among the company police was Snyder, who, in the words of Gallagher, seemed "as though he was assigned permanent to that kind of work." The attitude of the company police is illustrated by the verbal altercation which, according to Gallagher, took place between them and Burke, a S. W. O. C. organizer, outside of Truck Drivers' Hall where a meeting was scheduled. An automobile with company police was parked near the hall. Burke said to them, "You better get going, rats," and the reply was, "We

are here to stay if we have to shoot our way through it. You'se better get going."

On January 23, 1937, Gallagher was discharged. He had been employed as an inspector in the electrical department, and his duties consisted in making the rounds of inspection and answering whistles summoning him in case of any trouble. The evidence is conflicting with respect to the circumstances attendant upon his discharge. John H. Graft, the electrical superintendent, testified that during that time there was a flood condition in Mahoning Valley, that Gallagher was warned to "watch his step," and that he was nevertheless caught asleep in the control house, or "shanty," where inspectors were not permitted to rest. Graft further testified that he did not discharge Gallagher but merely told him to go home and get some sleep, and that he returned for his money and never requested to be permitted to come back to work. Gallagher, however, testified that he was always accustomed to rest in the "shanty" when there was no immediate work without anyone ever objecting, that there was no danger in his department that night, and that he left the shanty immediately upon the blowing of the whistle. According to Gallagher's testimony, the following conversation took place:

> " . . . my superintendent, Mr. Graff (Graft), says to me: 'Joe, I had Mr. Walker blow that whistle for you.' I says, 'What is it for, Johnny?' and he says: 'Well, you have been sleeping in there; you can go ahead home until I send for you.' I says: 'Well, you have got to give me a better answer than that, Johnny, before I ever accept it . . .'
>
> "He says: 'Well, Joe, I know you couldn't have been sleeping for you answered the whistle too soon, but,' he says, 'if I was you, I would go ahead on home.' "

When Gallagher returned to see Graft the following morning, the company police refused to let him enter. On pay day he received his money and was never asked to return to work. In view of the open hostility of the respondent toward outside unions and Gallagher's generally known membership in the S. W. O. C., we are inclined to the belief that the incident in the shanty was a pretext seized upon by the respondent to justify its conduct and that Gallagher was in fact discharged because of his affiliation with the S. W. O. C. However, it is unnecessary to make a finding with respect to this discharge, since it is not a basis of the complaint.

Beginning in February the S. W. O. C. organizers intensified their activities by visiting employees and talking to them about organization. Espionage by the respondent became correspondingly more systematic and persistent. Snyder was stationed near the headquarters of the S. W. O. C. in the Terminal Building and apprised other company police of the movements of the organizers. Gallagher testified that he was followed from the time he left his house at night to go to the Terminal Building until he returned. Charles Fagan, another organizer, testified to a particular occasion when he and Gallagher were followed "all around town" upon leaving the Roumanian Hall where they had attended a meeting. The automobile that usually followed the organizers bore license number H-763-V. On making an inquiry at the Bureau of Motor Vehicles in Columbus, Gallagher was informed that this license number was issued to Carl W. Parker, another of the company police.

Spying on organizers was not the only method by which the respondent endeavored to stifle union organization. Resort was had to the Plan as a means of spreading anti-union propaganda. Thus, at a meeting of the General Body in February, Elliott, district manager of the respondent, stated that it was up to each of the representatives to main-

tain the Plan in operation by going among their constituents and pointing out to them the merits of the Plan over the C. I. O. or any other outside organization.

This method was apparently ineffective. Unsuccessful in their attempts to get an increase in the wage rates, the Representatives, in a resolution adopted by the General Body on March 5, stated, "This Body feels it would be an insult to their intelligence to ask them to go among the men in favor of a plan that has failed to get for them what the employees of the other mills already enjoy." The respondent began, therefore, to pursue a more direct course of action.

On March 13, the day following the election of officers in Republic Lodge 1331, the foundry was suddenly closed. Twelve of the 14 men employed in the foundry were members of the S. W. O. C. and included Thomas White, President of the Lodge, and Charles Fagan, a member of the Grievance Committee. The foundry was a unit within the mechanical department and its chief products were molds or stools used in the open hearth and the Bessemer plant. William Manley, superintendent of the mechanical department, testified that the foundry was closed because there was a backlog of orders for Bessemer steel and the iron used at the foundry was required for the Bessemer plant. According to his testimony, for a period of at least 30 days prior to the closing of the foundry, conferences were held with the heads of the Bessemer plant, and it was decided to discontinue operating the foundry. He further testified that prior to the closing of the foundry the respondent had purchased some molds or stools to try them out.

This explanation is not convincing in the light of the attendant circumstances. The foundry had been in operation for 20 to 30 years and required only about 600 to 700 tons of iron per month, which amounted to two per cent of

the iron used at the Bessemer plant. White testified that at about 3 o'clock in the afternoon of March 13 Manley came into the foundry and said, "Boys, I have bad news for you. Our foundry is being closed down for good." By way of explanation, he stated that he had orders from "up above" and was carrying them out. When Manley made the announcement, the molds in the foundry on which six men had been working since 10 o'clock in the morning were almost ready for pouring. It would have required only about 3 additional hours' work to close the molds and then cast them. Instead of completing the work, the men were ordered to knock the molds out. It is unlikely that the closing of the foundry would have proceeded in such haste and disorderly fashion if it had been made necessary by a shortage of Bessemer steel, and previously discussed at conferences.

We conclude rather that the closing of the foundry, where substantially all the employees belonged to the S. W. O. C., was another step in the continued efforts of the respondent to check the increasing union organization. It was designed to discourage union membership, and was particularly directed against White and Fagan, who were thus discriminated against in regard to the hire and tenure of their employment.[53]

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53. On March 15 White, Fagan, and about four others who had been employed in the foundry interviewed McCoy, the Management Representative, regarding their positions. McCoy promised to extend his efforts on their behalf, but informed them that they would have to be hired through general labor. According to White's testimony, this signified being rehired as new men. When the men returned the same afternoon to get their tools, Bill Sponsler, the foreman at the Haselton furnace, handed them discharge slips. White objected and stated that he wanted to wait until pay day and look around in the meantime. But Sponsler replied, "I have my orders. You take these slips, and go and get your money." White testified that it was not the normal procedure in similar situations to discharge employees immediately, but that usually employees were permitted to retain their pay slips or time cards which enabled them to enter the mill at any time indicated on the cards and to communicate with the various foremen and supervisors.

Two or 3 weeks after the foundry was closed, McCoy secured employment for Fagan on the general labor gang at $5.00 a day. About 2 or 3 weeks thereafter Fagan was transferred to the coke works. Dissatisfied, he asked

At about the same time, individual employees in other departments were called in by supervisory officers and questioned about their affiliation with the C. I. O.

Richard Elder, a first helper in the open hearth department, testified that on March 13 George Putnam, the superintendent of the same department and Jones Cahill, the assistant superintendent, told him that they saw his name on the Executive Committee of Lodge 1331 in a C. I. O. pamphlet, and asked him whether he belonged to the C. I. O. Three days later, Putnam summoned Elder to his office and, according to Elder's testimony, said, "Dick, I always thought you was a good friend of mine . . . it don't look like it when you joined the C.I.O. . . . I just want to tell you that lots of times we have to let good men go that we don't like to lose, on account of union activities. . . I just wanted to tell you that." Putnam admitted questioning Elder about his C. I. O. membership, although he denied making the other statements and asserted that he merely warned him that he would be discharged if he did any organizing on company time.

Manley for a better position. Manley said he had nothing for him. About half an hour later, the foreman at the coke works asked Fagan his name and number, and said, "That is all I want to know." Several days later the same foreman told him he did not need him. Fagan returned to the labor gang, but worked only 1 or 2 days a week. He made two or three other attempts to obtain a position but was met with the reply that there was no work for him. Shortly before the strike, he received the vacation to which he was entitled.

Prior to the closing of the foundry, Fagan earned 84½ cents an hour and worked 6 days a week. He has not earned any money since he stopped working on the labor gang.

White was also offered employment on the labor gang, but he refused to accept it, and stated that in view of his years of service he thought he was entitled to a better position. Three or 4 weeks later, White told McCoy that he had been working out of town, but desired to return to the employ of the respondent. McCoy said he had to consult "one fellow" in the plant before White could be hired. Several days later, McCoy told him he could not take him back.

Prior to the closing of the foundry, White earned $44.40 a week. On about March 16 he obtained employment elsewhere and worked for about 6 weeks prior to the strike, commencing again on August 2. He left his employ at the beginning of the strike in order to participate in it as president of Lodge 1331.

Jerry Simcox, a second helper, testified that on March 13 or 14 Cahill and Putnam told him they understood he was an executive of Lodge 1331 and asked him how long he had been a member of the C. I. O. and how many followers he had.

James Farner, a welder in the line department and a member of the Grievance Committee of Lodge 1331, testified that Graft, the superintendent of the electrical department, asked him why he wanted to join the C. I. O. and get himself mixed up with a "bunch of cheap Bolsheviks." According to Farner's testimony, Graft also stated that the respondent would never recognize the C. I. O. and that the superintendents and heads of each department were to head "this thing off and save all our necks." Graft testified that he merely warned Farner not to solicit employees on company time and on company property.

Joseph Stevens, a second line man, testified that Graft called him and said, ". . . they tell me you belong to the union quite a bit . . . I would rather you keep your nose clean." Graft admitted talking to Stevens about his union activities, but denied making any statements designed to discourage him from continuing his union activities outside of the plant.

As indicated, the respondent's witnesses denied making certain statements intended to discourage union membership. However, the accounts given by the witnesses for the Board are more consistent with the evidence as a whole. Moreover, the respondent's witnesses admit that they questioned the employees regarding their C. I. O. membership. Such action by itself constituted intimidation and coercion of the respondent's employees.

Likewise, at about this time supervisory officers in different departments intensified the campaign of intimidation and coercion by spreading propaganda in favor of the

Plan and against the C. I. O. at meetings of the employees called by them for that purpose. Thus, in the middle of March a notice was posted on the bulletin board of the line shop in the electrical department announcing a "safety meeting." However, no safety measures were discussed. According to Stevens' testimony, Graft, the superintendent of the electrical department, spoke as follows:

> "Men, I am here in behalf of the ones that are interested in themselves and to try to convince the ones that are not interested in themselves, to be interested in themselves. . . Big Chief John L. Lewis . . . has never done anything for the laboring class of people . . . he won't do anything, only get your money and go on with it . . . you won't have any more than you have got, only you will be just out of a job or cause you a lot of trouble, you can't never get over, you lose friends . . . (the Representative Plan) has always give satisfaction . . . All the grievances that we have ever had to settle, have been carried out and treated the men right . . . regardless if every man in here joins a union, we are not going to recognize it. We are not going to sign any contract . . . we are not going to have no closed shop or no collective bargaining."

Stevens' version of Graft's speech is, in substance, supported by the testimony of Farner, who also attended the meeting. Graft denied attacking the C. I. O. and testified as follows:

> "I told them that there had been many pamphlets, booklets circulated in the plant, talking among the men, and articles in the newspaper as to what one would have to do to hold his job with Republic Steel Corporation. I told them that I had called them together to tell them just exactly what the policy of the Republic Steel Corporation was, and that it was not necessary to

join any organization regardless of what anybody said, to get their job or to hold their job.

"If they did join, that was their business. That under the Representative Plan we had been able to make very good strides. That I thought that our policy was the best policy for the men."

Several other meetings of a similar nature were held at various times during the month of April, after Golden, the Regional Director of the S. W. O. C., had written to Girdler regarding a proposed agreement. These meetings were addressed respectively by Manley, superintendent of the mechanical department, Elliott, the district manager, and Levantry, the works manager. In these addresses the C. I. O. was attacked, the Plan was extolled, and the policy of the company with respect to outside organization was emphasized. Thus, Elliott reiterated that the respondent would never sign with the C. I. O. or any other outside organization, adding, "Some of you fellows look at me as though to say 'to hell they won't,' but I say they might, but it would be a long, long struggle." Similarly, Levantry remarked, "This Company will never sign up . . . we will shut the mill up and board it up before we will sign with the C. I. O."

On April 19, as set forth above, McCoy announced at a special meeting of the General Body that the respondent was withdrawing financial support from the Plan. As reported in the minutes of this meeting, McCoy stated that "under the Wagner Labor Bill he would not be permitted to carry our time (as he has in the past) for attending meetings and explained that men off duty would not be compensated, but added that *men attending meetings during their regular working hours would be carried on their regular job.*" (Italics supplied). A motion was then passed that a monthly fee of 25 cents be assessed against all mem-

bers of the Plan, and a treasurer was elected. The only other significant change in the operation of the Plan was that membership was no longer automatic upon voting for a representative, but depended upon signing a membership card. In addition the name of the Plan, as it appears on the membership card, was changed to "Employee Representation Plan."

Shortly thereafter the Representatives began a membership drive in the "new" Plan and solicited employees within the plant and during working hours. The campaign does not appear to have been successful. Ralph Mondora, one of the Representatives, testified that the "Representatives tried to form their own organization, financed through the employees," but whatever funds they managed to secure were soon exhausted. Mondora testified also that he handled no grievances after April 19. When employees came to him, he "just turned them down, told them there isn't no such thing."

Plan activity was suddenly revived after the Cleveland conference of May 11 between representatives of the S. W. O. C. and the respondent. At the same time various measures were taken regarding the impending strike.

About a week before the strike, the Employee Representatives met to discuss steps for the prevention of the strike. Levantry, the works manager, was invited to attend. The Representatives voted to circulate through the plant and talk with the men. This was done. In addition, the respondent's supervisors assisted the Employee Representatives in holding meetings during working hours and on the respondent's property regarding the strike. Thus a meeting, previously announced by the foreman was held in the machine shop. Butler, the assistant master mechanic, introduced Jack Jones, an Employee Representative. In the course of his speech, Jones said, "We can have an or-

ganization of our own in here. We don't need this C. I. O. All they want is your dollar. . . Our representative plan is good enough for us, and I have some cards here for you fellows to sign that want to work. You fellows that want to hold your jobs, sign these cards." He then distributed membership cards in the Plan.

William Cummings, a machinist, testifying for the respondent, stated that shortly before the strike he was given permission by his foreman to dictate a petition to the Mayor of Youngstown for the signature of employees. In substance, the petition read, "We, the undersigned, not wishing to strike, in the event of a strike, ask for police protection to enter and leave the plant." Cummings could not recall on cross-examination where he derived the notion of preparing such a petition. He testified, "I might have gotten the idea from newspaper talk or something I had heard, that when there was a strike, that this had been done; now I don't recall whether or where. I didn't burden my mind particularly." Whether or not Cummings himself conceived the idea of the petition, he prepared it and solicited signatures on the respondent's time and within the plant. Cummings' memory was equally vague regarding the disposition of the petition after he had obtained the signatures thereto. He testified that two men whose names he could not clearly recollect asked him for a copy of the petition and he gave it to them. He also failed to recall the conversation that took place between them.

There is evidence that the same or a similar petition was circulated in other departments. John Guest, an Employee Representative, testified that a clerk in the electrical department phoned and notified him that a petition was waiting for him in the office and that they were "in a hurry to get it signed." Guest went to the plant and circulated the petition.

On May 19, at a meeting held in the office building of the respondent, the Independent Federation of Republic Employees, Youngstown District, was organized. Guest testified that a notice announcing the meeting was posted on the bulletin board in the masonry department. Mart Murphy, chairman of the General Body under the Plan, presided. Temporary officers were elected. John L. Smith, a mechanic in the electrical department, being elected chairman. Murphy explained that the purpose of the Federation was not to engage in collective bargaining but to cooperate with the Plan. He requested Representatives under the Plan not to run for office in the Federation.

Between the date of its organization and the strike, a number of departmental meetings were held by the Federation on company time. At each meeting John Smith announced from the chair the date of the succeeding meetings. Employees of the department next scheduled to meet were notified, on company time and property, by employees who had attended the preceding meeting. Walters testified that his foreman informed him of a meeting in the mechanical department. He inquired whether attendance was compulsory and the foreman replied, "Manley wants to see you all there." At the meeting, Cummings, a machinist, spoke through a microphone. He launched into a eulogy of the Plan and said, "This outside Union here, they are not for you or me." Another speaker talked about the Plan, the coal fields, the C. I. O., and John L. Lewis. He repeated, "They are not for you, they will do to you fellows just like they did to the fellows in the coal fields. They will double your dues. . . . You can't stop them once you sign their cause, then they can do as they please." Murphy pointed to Plan and Federation membership cards and said, "You fellows that want to work, sign the cards." The pamphlets of the Constitutional Educational League, entitled, "*Join the C. I. O. and Help Build a Soviet Amer-*

ica," were distributed.

Membership in the Federation was solicited not only at meetings but also individually. Michael Krill, an employee in the galvanizing department, testified that he was called in the foreman's office while another employee took over his work. Amel Valley, an Employee Representative, was seated at the foreman's desk. Valley asked Krill whether he wanted to join the Federation and handed him a membership card. He then remarked that there was not much use talking to Krill because he knew he was "100 per cent C. I. O.," but that he was supposed to speak to everyone in the plant. He added that Krill would be "better off" by joining the Federation. Krill was paid for the time so spent.

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3. *Events during the strike*

The strike commenced in Youngstown on the night of May 26. Immediately thereafter the Federation began to sponsor a back-to-work movement. Without consulting the other officers of the Federation or discussing the matter at any meeting, John L. Smith, the chairman, secured an office in the Dollar Bank Building, adjacent to the offices occupied by the Youngstown Sheet and Tube Federation of Employees. Back-to-work petitions were prepared for the signature of employees. Some of the petitions were retained in the office and others were distributed outside. Smith reimbursed the persons canvassing signatures for the gasoline used by them. Postal cards in the following form were dispatched to employees:

"To All Republic Steel Employees:—

"If you are desirous of returning to work as soon as porsible, stop in at Room No. 212 Dollar Bank Bldg., and sign up with the BACK TO WORK movement

sponsored by the Independent Federation of Republic Employees.

John L. Smith,
Chairman."

The record does not indicate the source of the funds which were used in carrying on the back-to-work movement. Cummings testified that at one of the Federation meetings, the date of which he could not recall, the question of dues was mentioned and he handed Mart Murphy a dollar. Chester Crosby, ladle crane man, also testified that he paid dues without stating, however, the date of such payment. There is no other evidence, however, that at that time dues were either required or contributed by the employees.

Early in July, after the mills were reopened, the Federation held a meeting in order to combine the Federation with the Plan. As stated by Smith, "The purpose of that meeting was for the Independent Federation of Republic Employees to drop the old Representative Plan or combine the two of them together as one." He testified further,

> "Well, at that time the officers of the Representative Plan resigned and we took over the reins."

It was also decided to "donate" the members under the Plan to the Federation. The testimony of Ralph Mondora is revealing:

> "Q. Had the question ever been put to the members, and whether they wanted to become affiliated with this Independent Federation?
>
> "A. No, sir.
>
> "Q. Whether they wanted to be donated?
>
> "A. No, sir.
>
> "Q. That was an action that the officers were taking without the consent in any way of the members, is that correct?

"A. That is correct."

At a meeting held in the Central Auditorium on July 25, a constitution and by-laws were adopted. Application cards were prepared. Employees were solicited to sign application cards within the plant and on the respondent's time.

Although the new constitution and by-laws purport to make the Federation independent in form of company control, they cannot conceal its real purpose. The record clearly shows the policy of the respondent to perpetuate in its plants an organization subservient to its will and purposes and designed to thwart self-organization on the part of its employees. The Federation is merely a continuation of the Plan under a new guise and is tainted with the same illegality. Before the strike Federation meetings were announced by supervisory employees and held on the respondent's property. Prior to the strike and after the reopening of the mills, employees were solicited to join the Federation on the respondent's time and property.

On the record as a whole, we find that the respondent has dominated and interfered with the formation and administration of the Employee Representation Plan and the Independent Federation of Republic Employees, Youngstown District.

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4. *The refusal to reinstate certain employees*

The mills in Youngstown reopened on June 25. Although the strike was still in progress, many employees returned to work. A number of them were refused reinstatement.

Harry Rigby. Rigby had been in the employ of the respondent for 26 years as an inspector in the electrical de-

partment. He joined the C. I. O. late in June 1937. Prior to the strike he was earning about $44 a week.

On Friday, June 25, Rigby and five other inspectors in the same department met and decided to return to work the following Monday. Kling, the foreman, phoned and said he needed men to start the mill at once. Rigby informed him of their decision to return Monday. Pursuant to Graft's instructions, Kling called again and said that if they did not return to work at once they would be replaced. When the men came to the mill on Monday, Kling said, "You fellows ain't got no jobs." Rigby saw Graft on July 13. Graft said, "Rigby, they tell me you are a chronic kicker . . . Charlie Ritchie told me that." Rigby replied that he did not believe that and that he had known Charlie Ritchie for a long time. Graft replied, "Well, I ain't got no more to say to you. You go home and stay home until I call for you." Thereafter, Rigby made attempts to see Graft again but was unsuccessful. Graft testified that the other inspectors admitted they made a mistake in not returning when told to do so and that they were all reinstated.

Upon the evidence in this case, we cannot find that Rigby was refused reinstatement because of his membership or activity in the Union.

John Lazar. Lazar commenced work for the respondent in 1919 and worked regularly until the strike as an inspector in the inspection department. He joined the C. I. O. in April 1937 and served on the picket line for about a week. Prior to the strike Lazar worked from 42 to 48 hours a week at the rate of 92 cents an hour.

On June 26 Lazar interviewed Bill Conklin, the assistant superintendent, regarding his job. Conklin said he would call him when needed. Lazar returned on June 28 to see Reubendale, the superintendent. Nearly all the other

inspectors were there. Reubendale gave them checks and told them to start working. When Lazar's turn came, he said, "No, I don't give you your check yet," and asked him what he was doing in the picket line carrying a stick or a club. Reubendale finally said, "Well, I can't do nothing for you, John, just go on home, when we need you, we will call you."

Lazar spoke to his foreman, Don Weeks, shortly after the Fourth of July. Weeks said, "Well, John, I am sorry to lose you from down here. I like to have you back, but I can't do nothing for you. You have got to see Mr. Reubendale." Lazar called Reubendale on the telephone repeatedly and was always told to call "the last of the week" or the "first of the week." An August 9 Reubendale said to him, "I can't do nothing for you, John. Why don't you go in the C. I. O. . . . They will help you out."

Lazar has earned $2.50 since the beginning of the strike.

It is clear that Lazar was refused reinstatement because of his connection with the Union and of his activity in the strike. The respondent apparently attempts to justify this discrimination on the ground that Lazar carried a stick or a club in the picket line. For the reasons discussed hereinafter we are of the opinion that, under the circumstances of the case, such conduct upon the part of Lazar, if true, would not warrant the respondent in refusing to reemploy him.

Michael Krill. Krill worked continuously for the respondent from July 1936 until the strike. Prior to the strike he was employed in the galvanizing department and was earning from $6.75 to $7.00 a day. He joined the C. I. O. in January 1937, acted as a volunteer organizer, and served on the picket line.

At about 6 p. m. on June 28, Krill returned to the plant to seek his job. Linden, the foreman, told him to come back an hour later. Krill inquired whether it would be satisfactory if he returned the following morning since he had to go back home, change his clothes and get his glasses. Linden replied that it would be all right, provided he returned prior to the dead line, but he did not know when it was. When Krill came early the following morning, Linden said that it was too late and that the dead line was already in effect. Linden also stated that he was aware of the time of the dead line the previous night, but did not want to apprise him of it. Linden then suggested that he register at the employment office.

Krill called again in July, and Linden promised to send his number to the employment office if he was needed. On August 13 Linden told Krill that he turned his number in but that there was something wrong. He then asked him whether he was on the picket line and said they probably had his picture in the main office.

Krill has earned about $25.00 since the strike.

We find that Krill was refused reinstatement because of his connection with the Union and his assistance to the union during the strike.

Balare Chismus. Chismus started work for the respondent on May 18, 1936. Prior to the strike he worked as a laborer in the bar mill. He joined the C. I. O. on May 28 and served on the picket line.

Chismus returned to the mill on June 27 or 28 to inquire about his job. The turn foreman asked him, "Why did you monkey around the C. I. O.," and told him to wait for Warnock, the general foreman. Warnock said he did not have anything for him then and told him to come back in a few days. On a subsequent occasion Warnock advised him to go to the employment office. At the employment of-

fice he was told that "there is nothing to do now." He made another attempt to see Rose, the employment manager, but was prevented by the company police. According to Warnock's testimony, Chismus admitted to him that he was arrested on the Market Street bridge on the night of June 10, and for this reason he was denied reinstatement. Warnock did not assert that Chismus was guilty of any acts of violence. Warnock further admitted that as far as he knew Chismus did not carry a club on the picket line.

Since the strike Chismus has earned about $68.00.

We find that Chismus was refused reinstatement because of his affiliation with the Union and his assistance to the Union during the strike. [54]

William A. Haren. Haren commenced work for the respondent in July 1926, and was employed as a mixer crane man. Prior to the strike he worked 40 to 48 hours a week at 77½ cents an hour. He joined the C. I. O. on August 6, 1936.

On June 29, Haren went to the mill to inquire about his job. Charlie Ritchie, the foreman, asked him, "Where is your club," and said, "You have caused a lot of trouble around here. You have agitated . . . If I need you, I will call you." Haren asked, "That means that I am fired?" Ritchie replied, "No, we don't fire anyone."

Two or 3 weeks later Haren returned to the mill again. Pursuant to a policeman's instructions Haren went to the employment office. Haren told Rose, the employment manager, that he wanted to register. Rose said, "What do you mean, register? How long do you fellows think we are go-

54. In the respondent's offer of proof filed with the Board on March 28, 1937, it is stated that on or about October 20, 1937, Chismus pleaded guilty to a charge of rioting. For the reasons discussed hereafter we are of the opinion that, under the circumstances of the case, the plea of guilty to such offense is not a bar to his reinstatement.

ing to hold your jobs here,—forever? Didn't you know that the gates had opened 2 or 3 weeks ago?" Haren testified that he thereafter phoned Graft and received the reply, "We don't have anything for you, Bill . . . We will notify you when we need you. We are all filled up."

Graft testified that he refused to reinstate Haren because he had an affidavit from one of the employees to the effect that Haren was on the picket line carrying a club. Graft does not know either the size of the club or the length of time Haren carried it.

Haren has not earned any money since the strike.

We find that Haren was refused reinstatement because of his connection with the Union and his activity in the strike. As in the case of Lazar, the respondent was not justified in refusing to reemploy because of his alleged activity on the picket line.

Charles Neverdusky. Neverdusky began to work for the respondent on March 9, 1936. Prior to the strike he was employed as a hooker in the cut and lap shipping department and earned about $7.00 a day. He joined the C. I. O. on January 9, 1937.

Neverdusky was out of town on June 28, the date of the dead line in his department. On June 30 he returned and interviewed Rose at the employment office. Rose was unable to find his number in the files and said, "You are off the pay roll, altogether . . . You have to get rehired." Neverdusky came back the following day and showed Rose his pay stub. Rose made another unsuccessful attempt to find his number, and could not tell Neverdusky the reason for its absence. The latter persisted, " . . . who else but you could give me a reason? They would have to give you a reason for taking me off the pay roll." Rose said, "Who the hell am I to give you a reason? Get the hell out of here."

At the end of July or early in August, Neverdusky spoke to McCoy, the Management Representative under the Plan, regarding his job. McCoy said to him, "You are one of these guys, C. I. O. men that was on picket line carrying a club?" Neverdusky denied that he carried a club. McCoy said, "Well, you are one of these smart guys went down and filed with the Labor Board." To Neverdusky's query, "So that is where we stand?" McCoy replied, "That is exactly where you stand."

Neverdusky has earned $12.00 since the strike.

We find that Neverdusky was refused reinstatement because of his connection with the Union, his assistance to the Union during the strike, and his filing a charge with the Board.

Anthony Martin De Long. Anthony Martin De Long was employed as a hooker in the electric weld department from April 1935 until the strike. Prior to the strike he earned about $5.00 a day. He joined the C. I. O. in April 1937 and served on the picket line.

The dead line in De Long's department was June 28. De Long went to the employment office on June 30. Rose checked his number and said, "I don't believe there is anything here for you now . . . We will call you when we need you." De Long inquired how soon that would be. Rose replied, "I don't know, come back New Year's."

On July 3 De Long spoke to Campbell, the general foreman of the department. Campbell told him that he had a clear record at the electric weld and he liked his work but he did not know how he could get back. He suggested that he see Roy Case, the superintendent. De Long testified that in the course of his conversation with Case on July 5, Campbell came running from the other side of the office and said, "Roy, do you know who this boy is? . . . His

name is Tony De Long." The expression on Case's face suddenly changed and he told De Long the work in the mill was slack, that there was nothing for him. De Long remarked, "Well, I can see that I am not wanted around here." Case replied, "Oh, yes, you are wanted around here. The men can use you. You are a good worker, and all that. The only thing you have to do is to keep walking to the employment office."

De Long repeatedly went to the employment office, but the police prevented him from seeing Rose. The police were stationed in front of the building. One of them had lists of numbers and names. Employees whose numbers appeared on the lists were permitted to see Rose. The others were told to come back the next day. Discouraged with his fruitless attempts at the employment office, De Long finally succeeded in contacting Campbell again. De Long said he wanted to be taken off the "merry-go-round" and to be told if he had any chances of returning to work. In one breath, Campbell said, "No, you are not fired," and in the next, ". . . You have to keep . . . walking down to the employment office. You have to be rehired."

Shortly thereafter De Long spoke with McCoy who told him, "You will have to wait until the case is over with the National Labor Board before you can go back to work."

We find that De Long was refused reinstatement because of his connection with the Union and his assistance to the Union during the strike.

We find that the respondent has discriminated against John Lazar, Michael Krill, Balare Chismus, William A. Haren, Charles Neverdusky, and Anthony Martin De Long in regard to hire and tenure of employment, thereby discouraging membership in a labor organization.

D. Warren

1. *The Plan of Employee Representation*

The Plan of Employee Representation in the Warren District of the respondent, comprising the Warren, Niles, and Trumbull Cliffs plants, was adopted in June 1933 and amended in May 1934. Shortly after the constitutionality of the Act was upheld, the Employees' Independent Association, herein called the Association, was formed. It purported to be a new organization and independent of the respondent. The activities of the Association will be discussed hereafter.

The similarity of the Warren Plan to the Plan at Massillon, Canton, and Youngstown renders it unnecessary to describe it fully. It is sufficient to indicate certain circumstances and incidents reflecting its domination by the respondent.

The Plan was initiated and sponsored by the respondent. Its adoption was never submitted to a vote of the employees. Ernest Webb, one of the Employee Representatives, testified that he was first apprised of the Plan at a meeting in June 1933 held in the office of the superintendent of the hot mill. Elliott, who was then district manager of Warren, explained the purpose of the Plan. The respondent bore the expenses of all the meetings and elections, both of which took place on company time and property, and of the entire functioning of the Plan. The representatives were paid their regular salaries for all time devoted to the Plan. Ed Mulligan, the chairman of the General Body of Employee Representatives, devoted most of his time to Plan work and was assigned an office for such work.

The record indicates that the elections themselves were

not always free of management influence. Webb testified that prior to the election of the Chairman of the General Body in 1934, Mulligan, who was a candidate for the office, said to him, "Well, using some of the superintendents to probably bring a little pressure and a little politics, why we will make out all right."

The experience of Webb as chairman of Joint Committee No. 2, in charge of wages, employment, schedules and working conditions, is significant. Out of 17 requests for wage increases which were presented to the Committee during a period of 3 years, the employees won two and lost 15. The cases were lost as a result of a tie vote between the Employee Representatives and the Company Representatives both in Joint Committee No. 2 and in the Appeals Committee.

From the evidence as a whole, we find that the respondent has dominated and interfered with the formation and administration of the Plan of Employee Representation, Warren District, and has contributed financial and other support to it.

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2. *Events preceding the strike*

The circumstances surrounding the discharge of Richard John Green, a breaker operator in the hot strip finishing department, serve to illustrate the activities of the respondent prior to May 1937 when the anti-union drive reached its height.

Green joined the C. I. O. on March 2, 1937. On March 6 Paige, his foreman, summoned him to his office. As the office was occupied, Green was taken to the mechanic's shed where he was alone with the foreman. Green testified as follows:

"He said: 'I called you in here, I want to ask you something. I want you to tell me the truth.' I said: 'I always have told you the truth, Ralph.' He said: 'I know that, that's why I called you in here.' He said: 'I hear your buddy, Jim Airwyke, is signing up members in the C. I. O.' I said: 'Yes, as a matter of fact, he signed me up.'

"He said: 'What did you want to do that for?' I said: 'We men around here are not satisfied with the Company Union Plan. As it is,' I said, 'we have no representation at all.'

"And he said: 'You have been long enough to know this Company's policy towards outside unions.' He said: 'You take my warning and get out of it, and everything will be O. K.' He said: 'I like you, and I don't want to see anything happen to you.' "

Paige further questioned Green regarding his attendance of C. I. O. meetings and admonished him "to stay away from them."

On March 21 Green was called to the office of Minahan, the superintendent. Minahan showed Green certain defective steel handled by him and said, "I am going to have to lay you off, and seeing that you have been laid off twice before, I will have to let you go." Green explained that the steel turned out "wavy" because the rolls were worn in the machine, and that the foreman was aware of it but said it did not "hurt anything." Green also explained to Minahan the reasons for his previous lay-offs. [55]

55. Green testified that his first lay-off was due to the "scratching" of some steel for which another operator was responsible, and that he submitted to a lay-off for 3 days rather than cause any trouble. The second lay-off occurred in March 1936. On that occasion Green and several other operators were instructed by the foreman to shovel coke because there was no immediate work on the breakers. Upon the refusal of the men to do so, the foreman sent them home and told them to stay home until he called for them. However, when the men explained the facts to Minahan a few days

Minahan said, "I could give you another chance, but you have been talking too much about the union, around here, . . . if you had been any ordinary sweeper, there would have been some excuse for you, but you are more intelligent and should have known better . . . As far as I am concerned, I am through with you."

Shortly thereafter, Green requested Glenn Dugan, an Employee Representative, to take action in his behalf. Dugan was doubtful as to the possibility of Green's reinstatement, since he had been attending C. I. O. meetings. A week later Dugan informed Green that Minahan even refused to discuss his case. According to Green's testimony, Dugan also said that "he could not understand the Company's policy in putting statements in the paper that any man was free to join any union of his own choice and then when he did so, then they fired him for it."

Unable to obtain any results through the Plan, Green communicated with Mayo, the C. I. O. Regional Director. Mayo secured the services of the Committee of Trumbull Lodge No. 73, and a meeting was arranged with officials of the respondent. The latter refused to give a definite answer.

About April 24 the Management Representative under the Plan, McClain, told the vice president of Trumbull Lodge that although he did not make any promises, he might consider reinstating Green but not James Airwyke or Arthur Scott, who were also discharged. On the same day the men decided to submit their case for determination by the Board. Several days later McClain called Green to his office to have "a man to man" talk with him. He said, "I hate to see a young fellow like you get off on the wrong foot with the wrong crowd," and asked him whether he

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thereafter, he said that they would have lost no time if he had been informed about the incident immediately.

wanted to return to work. Green was willing to return provided he was given back pay. Minahan said, "I will take you to the Labor Board and back four times before I give you your back pay." About May 3 or 4, Green decided to return to work without the back pay. He was asked to promise, however, not to talk about the union any more. Paige also told him that if he had heeded his warning he "would have never gotten into this trouble." [56]

Shortly after the constitutionality of the Act was upheld, the Employees' Independent Association was formed. Leaflets concerning the Association and membership cards were prepared for distribution. The leaflets were addressed to the employees of the Warren District and were signed by the members of a Committee, styled the "Reorganizing Committee for the Employes Independent Association." [57] Ed Mulligan, Chairman of the General Body under the Plan, was also chairman of this Committee. The leaflet indicates that the Association was intended to function pursuant to the provisions of the Plan as revised in March 1937. Presumably the reference is to the revision of the Plan adopted April 22, 1937, which has been described above.

An intensive Association membership drive began in

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56. Green worked until the strike. During the strike Green was refused reinstatement. See *infra*.

57. The leaflet reads in part as follows:

"In order that this plan can function in compliance with the various sections of the National Labor Relations Act (otherwise known as the Wagner Act), as regards rates of pay, wages, hours of employment or other conditions of employment, the plan was amended in March 1937 by the duly elected employee representatives.

"Paragraph 2, Section VIII, of the Wagner Act, recently held constitutional by the Supreme Court, provides, however, that an employer cannot contribute financial or other support to any labor organization. It is therefore necessary to secure financial support in order that our revised plan of collective bargaining can continue.

"If it is your desire to continue collective bargaining through a group of employee representatives chosen from among Republic employees, this can be accomplished by accepting membership in the EMPLOYES INDEPENDENT ASSOCIATION at a cost of Four Dollars ($4.00) per year . . . "

May, and was conducted with the active support and assistance of the respondent's supervisory employees.

On about May 1, Mulligan undertook to mail a great number of leaflets and membership cards to employees. He performed this work in his office in the respondent's hospital building. Eddie Werner, assistant to the employment manager, helped Mulligan by folding the leaflets and cards, placing them in envelopes, and sealing them. Mulligan told Webb, an Employee Representative, that he had to mail about 5600 leaflets and cards and believed he could obtain the necessary money from the Athletic fund. This fund, which was under the supervision of a Plan committee, consisted of gate receipts of various sport events held on the respondent's ball grounds and of the rentals charged outside parties for the use of such grounds.

The membership campaign was not altogether successful. The employees were reluctant to sign the cards. On about May 12, McKinney, a superintendent, asked Webb why none of his men signed Association membership cards. Webb testified:

> "I said: 'How do you know?' 'Why,' he said, 'Mulligan told me.' I said: 'What business did he have telling you?' I said: 'This is supposed to be a secret order.' 'Well' he says, 'you will have to go out and talk to them, talk to these men.' He said: 'You are a free lance, you get around all over the plant.' "

Webb refused to comply with McKinney's request, saying, "You know that the Wagner Bill has been passed." McKinney suggested that Webb consult Mulligan about it. Mulligan was absent from his office at that time. While Webb was waiting, Frank Neale, assistant to the master mechanic, entered and examined the membership cards in Mulligan's files. Shortly thereafter, Lowry, the master mechanic's chief clerk, came in with a handful of member-

ship cards and deposited them with the other cards. Several days before the strike, McKinney again complained that he was in a "tough spot" because the men under his supervision had not returned the membership cards.

A number of foremen were themselves directly engaged in soliciting members for the Association during working hours and on the respondent's time. Thus about May 12, Michel, the general labor foreman, asked Eli Parkovich, a foreman in the labor department, whether he joined the "company union," and told him that ". . . everybody wants to work, got to join the company union." He then instructed him to take down the names and numbers of the men in his gang who refused to sign membership cards.

About May 14, Taylor, the foreman of the blast furnace, approached Ernest Garnett, an operator of a "lorry" car in the stock house, and inquired why he failed to return the Association card which had previously been mailed to him. Garnett replied that he already belonged to the C. I. O. Taylor then said "If you know what is good for you, you will sign that." On the same and subsequent days, Kerwin, the superintendent of the blast furnace, engaged Garnett in conversation regarding the C. I. O.

William M. Cain, a roll turner, testified that about May 15, Baldwin, the foreman of the roll turner department, approached him while he was working and asked him what he thought about the "company union." When Cain expressed his opinion, Baldwin said, "I don't give a damn what you think of the company union, that don't interest me at all. I am on the spot. The roll turners at the Niles plant have signed up 100 per cent for the company union. The roll turners at the strip plant, fifty per cent of them have signed for the company union. I have eight men here, not one man has signed for me, and I am on the

spot, and I think you fellows owe it to me to sign that card." Baldwin then told him not to worry about the dues because "the company will take care of that."

George Carter, a locomotive engineer, testified that a few days before the strike, Miller, his foreman, asked him and another engineer whether they received a letter with a white card. Carter argued that it would be useless to pay $4.00 a year to join an organization that was of no benefit to him. Miller told him to forget the $4.00 and explained that there was nothing on the membership card regarding the payment of dues. When Carter refused to sign the card, Miller launched into an attack on the C. I. O., saying that it consisted of a "bunch of communists and bolsheviks."

On the basis of all the evidence we find that the respondent dominated and interfered with the Employees' Independent Association, Warren District, and contributed support to it.

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3. *The strike*

The strike began at Warren on the night of May 26. Various preparations were made to meet it on that day. Richard Green testified that at the end of his shift on that night he joined the "hot mill" men who were on their way to the strip mill in order to urge the strip mill employees to join the strike. However, on the track between the strip mill and the sheet and tin department there were lined up a couple of hundred "loyal" workers and "bosses" armed with sledge hammers, pikes, and other weapons. As the hot mill men were going through the sheet and tin department, Ginert, the superintendent, yelled at them, "Come on, you sons-of-bitches, we are waiting for you." Not desiring to create any trouble, the men decided to leave the mill.

As the employees in the cold strip shipping department were ready to leave at 11 o'clock, Bill Thompson, the "boss" of the department, said, "You have to stay here to protect your jobs. . . . If you go home, you won't have any more jobs in this department." John Riffle and Albert Lewis, impelled by the fear of losing their jobs, remained in the plant. They slept on the floor. Next morning they were given an order for the restaurant. The only supply of food in the restaurant consisted of hamburger sandwiches and coffee. In view of the number of people who had to be served, the hamburger was not properly fried and both Lewis and Riffle became ill. They went home the same day.

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4. *The refusal to reinstate Green and Hite*

About June 25 or 26 employees began to return to work. Richard Green and Hallie Philip Hite, it is alleged in the complaint, were refused reinstatement because of their union affiliation.

Richard Green. Green was actively engaged during the strike in transporting strikers from the S. W. O. C. headquarters to the plant for picketing duty. On June 25 or 26 he went to the Warner Hotel where, he had been informed, passes were distributed enabling employees to get through the National Guard lines and enter the plant. In the lobby Green met McClain, the Management Representative under the Plan, who laughed at him and motioned to him to get out. He then asked someone where to go in order to find out about returning to work. He was directed to the mezzanine floor where Mulligan, the chairman of the General Body under the Plan and chairman of the "Reorganizing Committee for the Employees Independent Association," was seated at a little table and had several lists in front of him which were believed by Green to con

tain the names of the men who were to return to work. He informed Green that his name was not on the eligible list and refused to give him a pass. Green testified that there were two others present, St. Clair and Blanchard Bolton. Bolton explained to Mulligan that he was on vacation when the strike commenced, and was thereupon told that he would be given a pass to see his boss. St. Clair was unsuccessful.

Green testified that he made no subsequent attempts to return to work, because he had heard that several men who had communicated with his superintendent were told that they would be called back when needed but never were.

The respondent contends that Green's visit to the Warner Hotel does not constitute an application for work, and that Mulligan's refusal to issue a pass does not constitute a refusal to reinstate Green, since Mulligan had no authority to register any employees or to assign them to any department, but simply acted as an Employee Representative and cooperated with the men for their own best interests. Green testified, and his testimony is not contradicted, that passes were necessary in order to get through the National Guard lines. It is inconceivable that the National Guard would have honored passes issued by Mulligan or anyone else had it not been instructed to do so by the respondent. That Mulligan's actions were authorized or at least acquiesced in by the respondent is further indicated by the presence in the hotel of McClain, who was the Management Representative under the Plan and who, as indicated above, had a voice in the hiring and discharging of employees. Moreover, Mulligan was the Chairman of the General Body under the plan and of the Association, which, as we found, were dominated and interfered with by the respondent and were but the tools of the respondent. Thus the respondent at the very least permitted

Mulligan in issuing or refusing to issue passes to hold himself out as acting for the respondent. It was, therefore, reasonable for Green to believe that Mulligan was acting with the respondent's authority. The natural interpretation of Mulligan's refusal to issue Green a pass based on lists of employees before him is that he would not be reinstated and that it would be useless for him to make any further attempts.

We find that Green was refused reinstatement by the respondent because of his connection with the union and his assistance to the Union during the strike.

Prior to the strike, Green earned about $9.50 a day. Since the strike he was employed for 1 day as a deputy sheriff and 2 weeks as an electric welder at the American Welding Company. His check for the first week was $26.41.

Hallie Philip Hite had been in the employ of the respondent since September 1923. Prior to the strike he was a yard conductor and "dumper" at the Trumbull-Cliffs plant, and earned $1.04 an hour with time and a half for working over 40 hours a week. Hite joined the C. I. O. on May 27 and served on the picket line.

Shortly before the strike, M. R. Martin, the traffic manager, and Kilcanney, the foreman, asked him to sign an Association membership card. Hite refused.

On about June 25 or 26 Hite was informed by Lavelle, one of the respondent's engineers, that the men were returning to work. The same day Hite saw Kilcanney and inquired about his job. Kilcanney said, " . . . if you go back to work, you have got to go back as a new man, rehire, that is, if they want to take you." Hite replied that he would never return as a new man after 14 years in the respondent's service. Hite made no further attempts to

secure a job. According to his testimony, it would have been useless, since Kilcanney told him he had "the inside dope."

Hite has not earned any money since the strike.

We find that Hite was refused reinstatement because of his connection with the Union and his activity in the strike.

We find that the respondent has discriminated against Richard Green and Hallie Philip Hite in regard to hire and tenure of employment, thereby discouraging membership in a labor organization.

E. Cleveland

1. *The Plan of Employee Representation*

The Plan of Employee Representation in the Cleveland District was a continuation of the Plan which had been established in the Corrigan, McKinney Steel Company in 1933.[58] In March 1937 the by-laws were amended, apparently pursuant to the revision proposed at the Cleveland conferences of the Central Council of Employee Representatives. This revision, as already pointed out, contained minor changes only and in no way removed the respondent's control over the Plan. Shortly after the constitutionality of the Act was upheld by the Supreme Court, Wakefield, the Management Representative, announced at a meeting of the General Committee of the Employee Representatives[59] that the respondent would no longer be able

58. The assets and properties of the Corrigan, McKinney Steel Company were acquired by the respondent in September 1935. In April 1936 the name of the Corrigan, McKinney Steel Company, appearing in the bylaws of the Plan, was replaced by "Republic Steel Corporation, Cleveland District."

59. The General Committee as set up in the by-laws of the Cleveland Plan corresponds to the "General Body" in the other districts, and is, in fact, referred to by witnesses as the "General Body."

to contribute any financial support to the Plan. Thereupon the Employee Representatives formed the Employees' Representative Association, a new organization which purported to be independent of the respondent. The formation and activities of the Association are further discussed hereafter.

The Plan in the Cleveland District up until April 12, 1937, was similar in structure and operation to the Plan in Massillon and the other districts. It is therefore unnecessary to describe it at length. It is sufficient to state that the employees were never given an opportunity to vote on the adoption of the Plan; that the respondent defrayed the expenses of all the meetings and elections, both of which were held on the respondent's time and property, of clerical and stenographic services, printing, and of the entire functioning of the Plan; and that the representatives were compensated by the respondent for all time spent in connection with the Plan whether during working hours or outside of working hours.[60]

We find that the respondent dominated and interfered with the formation and administration of the Plan of Employee Representation at its Cleveland District.

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2. *Events preceding the strike*

The campaign to organize the respondent's employees in Cleveland began in June 1936. At that time, there not being any Lodge set up for the respondent's Cleveland em-

60. The following incident serves as an illustration of the operation of the Plan: John Exall, a chipper at the Corrigan, McKinney plant, testified that in the 1936 elections for Representatives he was defeated by five or six votes. He subsequently learned that Peters, the superintendent of the department, urged the employees not to vote for him, saying, "Don't vote for this man. He is a radical. He is a Communist. Even if he get elected, we going to fire him." To one employee who praised Exall as being a "good man" Peters said, "If you think he is a good man, then you are a Communist yourself."

ployees, they began to join the Otis Steel Lodge.[61] The men were at first compelled to hold their meetings secretly.

As has already been stated, the respondent met the announcement of the campaign for the unionization of steel workers by its statement of July 2, 1936. Immediately thereafter it began a campaign to discourage and thwart organization.

(*a*) *The discharges*

Almost from the very first the respondent resorted to the weapon of discharges. We will take up in order those individuals named in the complaint as having been discriminated against for union activity. The respondent introduced no evidence to rebut testimony that the discharge of these men constituted unfair labor practices.

Thomas Cikah. Cikah commenced to work at the Corrigan, McKinney plant in 1925. Prior to his discharge he was employed as a locomotive engineer in the coke plant.

Cikah testified that during July and subsequent months company police watched the beer parlor operated by his wife near the plant, which was frequented by Balint, a C. I. O. organizer, and others connected with the C. I. O. Cikah joined the Union on July 2, 1936. Shortly thereafter Wall, the superintendent, summoned him to his office and inquired whether he belonged to any union. When Cikah replied that he did not, Wall advised him: "For . . . sake, don't join a union. They are no good. They don't give you anything."

Cikah was discharged on July 9, 1936. His foreman told him he was discharged because of his failure to stop the smoke and put out fires in the ovens under his super-

61. The Otis Steel Lodge had been established by the Amalgamated for the employees of the Otis Steel Company.

vision. Cikah testified, however, that he was not at fault in this regard and explained that while he was running the locomotive he could not do anything else. He also testified that there had previously been no complaints concerning his work. Furthermore, when he was reinstated shortly before the strike, he was assigned to his old position. This reinstatement took place on May 14, 1937, after Cikah had filed a charge with the Board.

At the time of his discharge Cikah was earning 59½ cents an hour. Since then the rates for locomotive engineers have been raised to 74 cents an hour. He did not earn any money between the date of his discharge and reinstatement.

On the basis of the whole record we find that Cikah was discharged because of his membership and activity in the Union.

John Popik. With the exception of a lay-off of five or six months, Popik worked as a rigger at the Corrigan, McKinney plant continuously from February 6, 1934, until his lay-off on August 10, 1936.

Popik joined the C. I. O. on about August 3, 1936. On August 9 he was directed to report to the office of Agnew, the master mechanic, who questioned him regarding his membership in the C. I. O., and remarked, "Don't you know that this plant (is) never going to be organized? . . . this company got a lot of money and (is) going to break any Union in the world." On the following day Agnew again summoned Popik and said, "I got news for you . . . I got to let you go. That is the news." Shortly thereafter Popik saw Krause, the employment manager, and inquired whether his C. I. O. membership was the reason for his lay-off. In reply Krause put his fingers to his lips and said, "Sh-h-h."

After his discharge Popik filed a charge with the Board. On May 8, 1937, he received a card from the respondent directing him to report to the main office. Krause then reinstated him to his former position as a rigger.

At the time of his discharge, Popik was earning 55 cents an hour plus a tonnage bonus. Since then the hourly rate for riggers has been increased to 72 and 75 cents. Between the date of his discharge and reinstatement, Popik earned $50 or $75 hauling coal in his own truck.

Upon the entire record in the case, we find that Popik was laid off because of his membership in the Union.

Frank Pirichy. Pirichy worked for the respondent off and on from May 1934 until his discharge in the latter part of August. For about 6 or 7 weeks prior to his discharge he was employed as a chipper in the chipping department. Pirichy joined the C. I. O. on July 1 or 2, 1936, and did considerable organization work among the respondent's employees. He testified that he succeeded in organizing about 100 men in the chipping department.

Late in August, when Pirichy reported to work on his shift, he was unable to find his time card on the rack. Upon inquiry, it turned out that the company policeman in attendance was in possession of Pirichy's card together with five or six others. Pursuant to the policeman's suggestion, Pirichy contacted Krause the following morning. Krause informed him that he had received orders from George Belline,[62] the superintendent of the chipping department, to dismiss him. Krause was unable to give him any further explanation, and stated, "according to my record, you perfectly O. K. . . . I have no complaint against you. I don't know what it is all about."

Pirichy testified that the words "no work" were writ-

62. Also referred to as George Bellew and George Balleau.

ten on the discharge slip handed to him. Nevertheless, about 15 or 20 new men were hired in his department during the same week. Again, when Pirichy returned to the employment office about 2 weeks later, he witnessed the hiring of additional men. His own request for employment, however, was repeatedly turned down with the reply, "We have nothing for you."

Pirichy filed a charge with the Board about a week after his discharge. On May 11 he was reinstated to his former position and worked until the strike. At the time of his discharge he was earning 60 or 62 cents an hour. The rates for chippers have since that time been raised to 72 cents an hour. After his discharge Pirichy was employed by the W. P. A. for a period of four and a half months and earned $71 a month.

On the basis of all the evidence we find that Pirichy was discharged because of his union membership and activity.

George Troyanovich. Troyanovich began to work at the Corrigan, McKinney plant on September 3, 1925. At the time of his discharge on August 27, 1936, he was employed as a bed chain man.

Troyanovich became a member of Otis Steel Lodge in the latter part of June. On July 24 he met two organizers from the Otis Steel Company, Casey and Murphy, who invited him in their car which was parked on Broadway and engaged him in conversation. The conversation centered about the circumstance that the respondent's employees were being "called in" and questioned by their bosses and by Jones, the captain of the company police. Casey and Murphy expressed the belief that Lohman, an Employee Representative in the coke department, was furnishing the respondent with information. Upon leaving the two men, Troyanovich encountered Sam Naletrich, a loaderman in

the coke department, who repeated that men were being called in. Naletrich then warned him, "Watch yourself, here comes the company stool." Troyanovich looked around, and saw a man coming slowly down the street. Naletrich remarked, "That fellow hangs around the beer joint all the time . . . he turns in fellows that sign up." Troyanovich then went to the office where he received his vacation money. On his way out, he noticed that the man who had been pointed out to him by Naletrich was talking to a company policeman.

On the same day Troyanovich was ordered to report to the main office where Wakefield, the Management Representative, and Captain Jones questioned him concerning his conversation with the two men on Broadway. Believing that a denial would be futile, Troyanovich admitted that they were two organizers from the Otis Steel Company. Captain Jones thereupon launched into an attack against the C. I. O. and accused John Lewis of being a racketeer and "out to make money for himself." He admonished Troyanovich to stay away from the two Otis Steel men if he knew what was good for him. When Troyanovich stated that he was "neutral" on the union question, Wakefield asserted that it is impossible to be neutral and that one must be either for or against the company. Troyanovich was then urged to influence the men in favor of the Plan and against the C. I. O.

Troyanovich left on his vacation the same afternoon. When he returned his house was watched by men who arrived in a car and parked on the other side of the street. Upon his leaving the house, the car also disappeared.

Two or three days after he returned from his vacation Troyanovich was summoned to the office of Zimmerman, the superintendent of the order and shipping department. Shriber, assistant to the district manager, talked to him. Troyanovich testified:

"Well, he first said that he was very much disappointed in me, and I wanted to know just what he meant by that. He said that I knew what he meant. He didn't get to the point. And then he said, 'You know . . . they are going to start organizing this union down here . . . there is going to be a lot of trouble . . . We have had intentions of putting in a new mill here in Cleveland, . . . if this threat of the union drive is going to go through, we might change our minds and not put the mill in here, . . . you know there is going to be some good jobs when that mill goes up . . . you look like a pretty intelligent fellow . . . if you work with us, why . . . we will see that you will get a good job.'

And he further stated . . . 'You know, the Republic Steel has the reputation of being very good to its friends, and damned ruthless to its enemies . . .' "

The same day Balint, the C. I. O. organizer, told Troyanovich that he was slated to be discharged. He explained that Lohman had signed an affidavit confessing that he was compensated by the respondent for furnishing information regarding employees who had joined the C. I. O.

When Troyanovich reported for work on August 27, Robbins, the chief chipper, stopped him and stated that his work had been unsatisfactory. He refused to explain any further. He said, "Charlie Barrie has got the proof," and added, "You have been a bad influence around here in the past two months."

Thereafter Troyanovich requested the Employee Representatives to take action in his behalf. An interview with Wakefield proved fruitless. He stated that they had enough to "hang" Troyanovich and would never rehire him. The Employee Representatives then appointed a committee to see Barrie and ascertain the facts relative to the discharge of Troyanovich. Barrie informed the committee that about

2 months before he had been instructed by his "superiors" to watch Troyanovich, that he had on numerous occasions observed him conversing with a group of five or six men, and that he turned him in because he was "suspecting that the man was talking about the Union and about Communism."

The matter was then submitted to the General Committee at a meeting held on September 8, 1936, and a motion was unanimously adopted recommending the reinstatement of Troyanovich. John Exall, an Employee Representative, testified that about a week after the meeting Carpenter called him into his office, upbraided him for "raising hell" about Troyanovich, and stated that he was a Communist and would never be taken back.

At the time of his discharge Troyanovich averaged over $5 a day and worked 6 or 7 days a week. On September 30, 1936, he secured employment elsewhere at loading coal and worked for 3 months, earning $26.30 weekly. Since the first of April his earnings averaged only between $5 and $10 a week.

Upon all the evidence in this case, we find that Troyanovich was discharged because of his membership in the Union.

Michael Naletrich. Naletrich worked at the Corrigan, McKinney plant continuously from 1917 until his discharge on September 9, 1936. At the time of his discharge he was employed as a loaderman in the coke department. He testified that he had never been laid off and that his work had at all times been satisfactory.

Naletrich joined the C. I. O. in July 1936, and was active in organizing employees. In the middle of August he took 10 employees to Cikah's beer parlor where they were signed up by Fred Korecky, a speed car operator at the

Corrigan, McKinney plant, and recording secretary of Lodge 1098, an S. W. O. C. Lodge. Naletrich testified that he was watched by men from the respondent's office as he entered the beer parlor with the employees. On about September 6 he was directed to report to the superintendent of the coke plant, Wall, who glanced at a slip of paper in his hand and inquired whether Naletrich had joined the C. I. O. Naletrich denied his membership. Wall warned him "Better don't join." After this conversation Naletrich was closely watched by his foreman.

On September 9 Naletrich was discharged. By way of explanation his foreman told him that he had made a "big mistake" a month ago when he had pushed the coke before the whistle blew. Naletrich testified that he had already been penalized for his mistake by a one-day lay-off, and that others had committed the same error but were never discharged as a result. After his discharge he repeatedly tried to get his job back but was unsuccessful.

Naletrich filed a charge with the Board in March 1937. On May 6 he received a card from the respondent asking him to return to work. For 3 days he was assigned to loading doors and then he was reinstated to his former position.

At the time of his discharge Naletrich was working at the rate of 59 cents an hour. For the first 3 days after his return to work he earned 57 cents an hour and thereafter 74 cents, which constituted the new rate for his former job. After his discharge Naletrich was employed elsewhere for a period of 8 weeks and earned about $160.

Upon all the evidence we find that Naletrich was discharged because of his membership and activities in the Union.

Fred Korecky. Korecky worked at the Corrigan, Mc-

Kinney plant more or less regularly from 1930 until his discharge on December 19, 1936. During the first two and a half years he was a pump operator. Then he was employed as a speed or service car helper and was finally promoted to the position of service car operator. He testified that as far as he knew his work had always been satisfactory.

Korecky joined Lodge 1098 on July 26, 1936, and was elected recording secretary a month later. He was active in organization work among the employees. As already noted, in the middle of August he signed up the employees brought into Cikah's beer parlor by Naletrich. During the month of November Korecky was on different occasions questioned by Wakefield, the Management Representative, and Tull, the electrical superintendent, regarding his C. I. O. membership. Korecky denied that he had joined the C. I. O. He testified that after these conversations took place, his house was watched by a man, whom he recognized as a sergeant or lieutenant in the company police and whom he had previously seen in the mill.

On December 19 Korecky was laid off. In accordance with the suggestion of Homer Kerr, the turn foreman, he reported the following morning to the employment office where he saw six laborers being hired. Korecky implored Krause to give him anything at all, even a laborer's job. Krause's reply was, "No." Korecky insisted, "Why you just hired six men out there. I seen them come in here and I seen you signing them up now." Krause said, "Oh, never mind."

Although it is not entirely clear, Korecky's testimony on cross-examination indicates that the occasion for Korecky's lay-off was furnished by the elimination at that time of gasoline locomotives from the equipment used in the service car work and the substitution of gasoline trucks.

The service car gang consisted of Korecky and seven other men who had all joined the C. I. O. and were laid off at the same time. Korecky testified that all these men were subsequently taken back although he did not know on what dates. Korecky further testified that he was sixth in seniority in the service car gang but had greater seniority in the electrical department.

Korecky's case was discussed at a meeting of the General Committee of Employee Representatives on January 5, 1937. Korecky, who was called in to explain the facts of his case, stated that he had seniority rights in the electrical department where men were being hired on the pumps and on the construction gang. He was later informed by John Exall, one of the Representatives, that the General Committee recommended his reinstatement by unanimous vote. However, no further action was taken in the matter.

Korecky filed a charge with the Board in January. On May 18 or 19 Krause offered him a laborer's job. Korecky did not report to work, since he was occupied with some business matters for a few days, and then he heard that a strike was to be called.

On the basis of all the surrounding circumstances it must be concluded that Korecky was discharged and refused reinstatement until shortly before the strike because of his affiliation with the C. I. O. There is no evidence that the other men on his gang who had been taken back engaged in any organization work other than joining the C. I. O. Korecky, however, distinguished himself by securing the signatures of other employees. It may be that Korecky's position was in fact eliminated. He was, however, willing and anxious to accept any work for which he was qualified. Such work was denied to him although other men were being hired.

At the time of his discharge Korecky was earning 62

cents an hour and worked alternately 40 and 48 hours a week. He was paid time and a half for working over 40 hours a week. Between the date of his discharge and recall he earned about $370.

John Exall. Exall was employed as a chipper in the Corrigan, McKinney plant from the spring of 1933 until his discharge on January 14, 1937. He joined the C. I. O. on July 2, 1936, and held the position of treasurer in Lodge 1098. It will be recalled that Exall, in his capacity as alternate Representative, endeavored to bring about the reinstatement of George Troyanovich who was discharged on August 27. On September 14 Carpenter summoned Exall to his office and said to him, "Exall, do you care to work any longer for us? . . . What the God-damn Hell are you raising hell about George Troyanovich? We fired him and when we fire him we never take him back, either. You know, he was a Communist." Carpenter then questioned Exall about his children and their education and suggested, ". . . suppose there is a chance for you to become a chipper foreman." Exall replied, "Mr. Carpenter, as long as I represent here, I decline the proposition. If the company thinks that I am good enough to become a chipper foreman, when my turn is over, I will think it over." Exall testified:

> ". . . he got sore a little bit on account of my answer, and he says, 'You don't fool anybody,' he says, 'we know you. We know all about you, and we got the goods on you, too . . .' I says, 'Any proof you got on me, lay your proof on the table and I will admit my mistake,' but he says, 'Go on now,' he says, 'Next time I call you here I am going to have the proof.' "

Late in October Wakefield requested Exall to urge all the employees in the chipping department to stay away from the C. I. O. Wakefield offered to permit him to work

in the daytime, so that it would be possible for him to see the men on the different shifts; to recompense him for time spent outside of working hours in visiting the men at their homes; and to assist him in educating his children. Exall declined to accept these propositions.

At about the same time Exall attended a C. I. O. meeting held at the house of Manuel Garcia, an employee of the respondent. On the day following the meeting, John May, the Plan Chairman, visited Exall at his home. May explained that he was sent by Wakefield and instructed to speak to him like a father. He said they knew where Exall had been the previous day and he mentioned Garcia's name and the number of his house. He finally said, "Mr. Wakefield send me over here . . . to tell you to watch your step."

Upon his return to work thereafter Wakefield asked him whether May spoke to him and what he thought about it. Exall testified:

> "I told him Mr. Wakefield I think I got a right to go any place I want. What I am doing is my own affairs. He said, 'Yes, but it don't look good in the part of the Company. You cannot work both ways. If you want to work with C. I. O., resign your position here.' I said, 'Why should I resign my position?' He said, 'You cannot work both ways . . . You don't give the co-operation.' I said, 'If I don't give you satisfactory co-operation, why don't you fire me?' He said, 'Don't worry, if you don't watch your step, you going to get fired.'"

Sometime in November Exall was laid off for a week under the following circumstances: An invitation had been extended to the Employee Representatives to attend a meeting in Youngstown of the "Employee Representatives of Ohio." At a meeting of the General Committee Wakefield announced that although they had no right to repre-

sent the respondent's employees at the Youngstown meeting, any Representative could attend as an individual if he so desired. Exall consequently made the trip. When he returned, George Belline, the superintendent of the chipping department, laid him off for a week for absenting himself from work without the foreman's permission. Exall protested that he had on other occasions taken time off without permission and was never reprimanded. He complained to Wakefield and requested that a special meeting of the General Committee be called to consider the question. Wakefield replied, "Nothing doing." He made the same request upon May, the Chairman of the General Committee, who told him that if Wakefield was opposed to a meeting, nothing could be done about it.

On about January 5 Exall was ordered to report to Wakefield's office. Captain Jones, who was present, read certain names from a list containing about 300 names and check numbers and asked whether Exall recognized them. Exall testified:

> "I said, 'Yes; most of them . . . Why?' He said, 'You done the dirty work.' I said, 'What do you mean, Mr. Jones?' He said, 'You signed up these men in the Union . . .' I told them it was a lie and he turned around and he said, 'Not only that but during [sic] the payroll C. I. O., you are getting $6 a day,' and I told him that was another lie. And he turned around and said, 'Well, we expect you to say that but you cannot fool me. I am watching you day and night.' Then . . . I said, 'What business have you got to watch me what I am doing outside of the plant?' He said, 'That is my job. I am getting paid for it . . . As long as you want to work for them at $6 a day, why don't you talk to Mr. Wakefield? . . . We pay you $6 a day.'
>
> And I says, 'What . . . are you trying to do, make

a stool pigeon out of me? . . .' 'Well,' he says, 'You can't work for both sides, for Republic Steel and for C. I. O. . . . if you don't want to play ball with us . . . you won't stay long.'

I says, 'O. K. . . . If I don't give satisfaction, . . . they can fire me.'

He says, 'Don't worry . . . they are going to fire you if you don't play ball with us.' ''

Jones then handed Exall a notebook containing a list of numbers headed by Exall's name and number and said that it belonged to Balint. Balint subsequently denied ever having seen the notebook. When Exall mentioned this to Wakefield, he said that Balint was double-crossing him.

At about that time lockers of employees in several departments had been broken into, and a systematic search was made of the personal belongings of some employees. Exall testified that his own locker was broken into twice but nothing was removed. This matter apparently became so acute that it was discussed at a General Committee meeting. At the meeting Exall made a statement that they were looking for union cards, that he was a union man and proud of it, and that he wished they would let him alone.

On the night of January 13 a C. I. O. mass meeting was held at the Bohemian Hall. Exall testified that he was seen entering the hall by Captain Jones and other company police who were stationed outside.

Exall was discharged on January 14. He testified that at about 2 o'clock on that day he proceeded to the tool room to change his chisels. Jack Simon, who was in charge of the tool room, told him to continue to use the same chisels longer. About half an hour later George Belline called Exall aside and said, "The way you act, it seems to me you want the Company to hire a couple of more grinders for

you." He accused him of doing nothing all day but changing chisels, and specified the inches of steel that he had chipped with the respective sets of chisels. Exall replied that he could not possibly have ascertained the number of inches of steel he chipped with a particular set of chisels because he had been working alone since 12 o'clock and there was nobody present to measure. Belline refused to argue further and finally said, "Well, we don't want you here." Exall testified that the chippers had been cautioned at a number of safety meetings to exchange chisels which were worn down. Exall also testified that he had never before been reprimanded for improper use of tools. Moreover, it is unlikely that the offense with which Exall was charged was of a serious nature, since chisels which are returned to the tool room are not discarded but merely sharpened and then assigned for further use.

About a month later Exall and five or six other employees who had been discharged attempted to interview Wakefield regarding their jobs. A policeman at the gate stopped them and asked them to wait. He went in to speak to Captain Jones, returned in a few seconds, and said, "Nothing doing . . . they don't want youse." The same day Exall phoned Wakefield and was told, "You have got your case pending down at the Labor Board, we can't do nothing for you until the Labor Board makes decision."

On May 24, Wakefield offered Exall a labor job. When Exall suggested that he had seniority rights, Wakefield replied, "Oh, no, we want to hire you as a new man, forget about it." Exall was required to submit to a physical examination. He worked on May 26 and then went on strike.

At the time of his discharge Exall was working at the rate of 52 cents an hour. Since his discharge he was employed for about a month by the W. P. A. and earned approximately $60.00.

Upon the entire record we find that Exall was discharged because of his membership in the Union.[63]

John Petak. Petak worked at the Corrigan, McKinney plant continuously from 1928 until his lay-off on January 18, 1937. He was employed as a crane repairman in the bull gang.

Petak joined the C. I. O. on July 1 or 2, 1936. Two weeks thereafter Tull, the superintendent of the electrical department, said to him, "John, I have got your name and badge number here and I heard you joined outside union." He also told him that he had been informed of Balint's frequent visits to his house. After this conversation Petak was given considerably less work than the other men.

At about the same time his house was being watched by company police. On one occasion a company policeman followed him all the way from his home to the clock house in the plant and observed him as he punched his card. On January 13 Petak saw Captain Jones and the policeman who had previously followed him standing outside of the Bohemian Hall where a C. I. O. meeting was being held.

When Petak came to work on January 18 he found that his card had been removed from the rack, and that he had been laid off. Gene Perry, the boss in the electrical department told him that the elimination of gasoline locomotives necessitated the lay-off of some men and that he was the youngest in the bull gang. When Petak remonstrated that there were four men on the gang with less seniority, Perry promised to secure for him a crane operator's job and to call him in a few days. He never called. About 3

63. Exall testified and it also appears in the offer of proof with respect to violence contained in the respondent's motion to reopen filed on August 6, 1938, that he was found guilty of assault and battery committed during the strike. For the reasons discussed hereafter, we are of the opinion that, under the circumstances of the case, conviction of such offense is not a bar to his reinstatement.

weeks later Petak spoke to Krause. Krause told him to wait a minute. He returned after about an hour and a half and did not even want to talk to Petak. Petak made three other attempts and was met with the reply, "Nothing doing." Petak testified that in the meantime four men having less seniority had been taken off the speed car service and placed on the bull gang. He also testified that a janitor had been given a craneman's job and then placed on the bull gang.

Thereafter, Petak filed a charge with the Board. On May 18 he was offered a general labor job and worked until the commencement of the strike at the rate of 62 cents an hour. At the time of his lay-off he was earning 59 cents an hour. The rate of employees in the bull gang was ultimately increased to 74½ cents an hour. Petak had not earned any money from the date of his lay-off until his recall on May 18.

On the basis of the whole record we find that Petak was laid off because of his membership in the Union.

Mathew Babich. Babich first began to work at the Corrigan, McKinney plant in 1922. Shortly prior to the acquisition of the plant by the respondent in 1935, Babich was laid off because his position was eliminated. On May 6, 1936, he was given a job on the electrical repair gang and worked continuously until his lay-off on January 25, 1937.

Babich joined the C. I. O. on July 16, 1936. He testified that in August his locker had been broken into, and his union card had been removed. Everything else which he kept in the locker, including a little money, remained intact. On January 13 he went to the C. I. O. meeting at the Bohemian Hall which was kept under surveillance by company police.

On January 25 Gene Perry informed him that he had to

lay him off because he was the youngest man in the gang. Babich protested that only three or four men in the electrical department had greater seniority, that he had held various positions, and was willing to accept any job available. Perry promised to put him on at the first opportunity. Subsequent attempts on Babich's part to secure a job proved unsuccessful.

Babich filed a charge with the Labor Board in April. On May 19 or 20 Krause offered him a labor job and he worked until the strike, earning 62½ cents an hour. Prior to his lay-off he was paid at the rate of 62½ cents an hour and was working from 40 to 48 hours a week. The wage rates for electricians have been raised since then. Babich earned $26 between the date of his discharge and recall.

Upon the whole record we find that Babich was laid off because of his union membership.

Wilbert Neuman. Neuman first began to work at the Corrigan, McKinney plant on July 21, 1933. At the time of his discharge on January 27, 1937, he was employed as a chipper.

Neuman joined the C. I. O. in September 1936. He attended the C. I. O. meeting held in the Bohemian Hall on January 13. Neuman testified that at the meeting he compared his C. I. O. membership card with that of another chipper. Next to him sat a man called Russel Lapka whose father, Neuman later learned, was a company policeman.

After the meeting, Neuman sprained his back and was temporarily assigned to light work such as oiling chipping hammers and other odd jobs. On one occasion, when he was in the tool room, Jake Simon, the foreman, said to him, "You know, if I were you I would never join the C. I. O., because Republic Steel has too much money behind it."

On January 26, as Neuman proceeded to the tool room

to exchange chisels, he encountered Nicola Michich, a foreman, who warned him, "You better watch yourself, because George Balleau [Belline, the superintendent] has been watching you all day." The following day, Belline came over to Neuman with the four old chisels which he had presumably turned in the previous day, and ordered Edward Ray, another chipper, to test them. As Ray chipped the steel, Jake Simons measured the chips, and Belline made a note in his book. After Ray had thus tested all the chisels, Belline said to Neuman, "I am going to fire you. . . . I have been watching you for the last two weeks . . . You have been doing nothing but monkeying around. You have been using too many chisels. You are fired." Neuman testified that he had been employed as a chipper for 3 months prior to his discharge and had never before been criticized for using too many chisels.

Neuman filed a charge with the Board in February. On May 11 he was reinstated to his former position. At the time of his discharge he was working at the rate of 62½ cents an hour and was averaging about $5 a day. He did not earn any money between the date of his discharge and reinstatement.

Upon the whole record we find that Neuman was discharged because of his membership in the Union.

Gaetano Armeli. Armeli first commenced to work at the Corrigan, McKinney plant on April 27, 1933, as a laborer. On November 12, 1936, he was promoted to the position of chipper. This position he maintained until his discharge on February 20, 1937.

Armeli joined the C. I. O. early in January. About a month later he lost his key case containing the keys to his locker and his C. I. O. membership card. He reported the loss to the company police. In 4 or 5 days Belline informed

him that Captain Jones had found his keys and would return them to him. Captain Jones opened the case and asked Armeli whether the keys belonged to him. Afraid of the possible consequences, Armeli attempted to deny any knowledge of the C. I. O. card and tore it in half. Captain Jones, however, recovered the card from him and said, "Hold on, don't throw it away. Give it to me. I am going to check up your handwriting."

On about February 26 Armeli's foreman told him, "I am sorry, Tom, you have to go to see George Bellew, [Belline] the superintendent." Armeli testified that Belline drew a slip of paper out of his desk and read him "a story of using too many chisels" about which he knew nothing. Armeli's entreaties to be given a "break" were ineffective and he was advised to see Krause. Krause merely confirmed the fact that he was discharged and handed him his slip which, according to Armeli's testimony, was marked "suspicious."

Shortly thereafter Armeli filed a charge with the Board. On May 18 or 19 Krause visited him and offered him a job in the labor gang, where he worked until the strike at 52½ cents an hour. At the time of his discharge he was earning 62½ cents an hour plus a tonnage bonus. The wage rate for chippers has since been increased to 72½ cents an hour.

On the basis of all the evidence we find that Armeli was discharged by the respondent because of his union membership.

We find that the respondent has discriminated against Thomas Cikah, John Popik, Frank Pirichy, George Troyanovich, Michael Naletrich, Fred Korecky, John Exall, John Petak, Mathew Babich, Wilbert Neuman, and Gaetano Armeli in regard to hire and tenure of employment, thereby discouraging membership in a labor organization.

(b) *Other acts of intimidation*

The discriminatory discharges of these employees accompanied by the surveillance of C. I. O. meetings, spying on employees affiliated with the C. I. O., and the other practices referred to, are not the only manifestations of the respondent's active hostility to self-organization on the part of its employees. Numerous other incidents serve further to illustrate the respondent's activities.

In the middle of August a C. I. O. meeting for Negroes employed at the Corrigan, McKinney plant was scheduled to take place at the Globe theatre. The contemplated meeting, however, failed to materialize. One Negro who came to the theatre explained that the men were afraid to attend because Captain Jones was driving around in his car with about four other men.

The company police, under the leadership of Captain Jones, made repeated attempts by means of threats and violence to prevent the distribution of union literature in the vicinity of the respondent's plants. Thus when Benny Favorito, a volunteer S. W. O. C. organizer, was distributing literature at Independence gate, Captain Jones and Sergeant Russell threatened the employees with discharge if they accepted any handbills. On another occasion in December Captain Jones began to assemble a crowd to "tackle" the C. I. O. organizers who were distributing handbills in front of the gate. The organizers were compelled to leave.

On January 13 Balint, Vincent Favorito, and another organizer went to the plant of the Truscon Steel Company, a subsidiary of the respondent, to distribute announcements of the mass meeting at the Bohemian Hall scheduled for that night. As they took their positions near the gate, a "great big fellow" wearing a blue lumber jacket came out of the gate and approached Balint. Believing that he was

an employee, Balint handed him a leaflet. He took it with his left hand, whirled Balint around, said, "You dirty son-of-a-bitch, get the hell away from here," and hit him in the eye. Balint testified that the man had brass knuckles on his right hand. Walter Maloney, alias Walter Jergis of the company police, who was standing there, called them "further names" and said they received what they were looking for. As a result of the blow, Balint's eye became infected and had to be lanced. Balint subsequently saw the man who struck him dressed in uniform at the Truscon plant.

Benny Favorito testified that a number of C. I. O. men were distributing "Steel Labor" at the Truscon plant on January 25. One of the men who were massed around Captain Jones approached him and struck him in the face. Favorito retaliated. Thereupon a company policeman ran up to him, pulled out his gun, and said, "You son-of-a-bitch, if you don't cut it out I will put a slug in your back."

On April 19 Paul Castman was brutally beaten when he was distributing literature at the Truscon plant. Prior to a description of this incident it is material to set forth certain circumstances relative to Castman. He had procured a job at the Truscon plant on March 5, 1937. On April 5 his foreman told him that he had received orders to lay him off but gave no reason. Frank Dunch, a Representative, informed him that he was discharged for union activities. He was advised to speak with Captain Jones who questioned him about his former employment and his union activities. Castman testified:

> "He said, 'You are not working with Al Balint, are you?' I said, 'No, sir. I am not. I don't even know Al Balint.' He says, 'He is one of the Union men . . . You ought to be working for the Union . . . One of the Presidents of the Union's Lodge is getting eight dollars a day from the C. I. O. . . . I am also paying him for his work down here.' "

He then asked him about the extent of the C. I. O. membership in the plant and again inquired whether he was associated with Balint. He warned him, ". . . if you are, it will be too God damned bad for you, if you are double-crossing me, look out."

Subsequently, Castman engaged in voluntary organization work. As already stated, on April 19 he was distributing literature near the gate of the Truscon plant to the men entering and leaving the plant. John Jense, an employee of the respondent, told Castman he would sign a C. I. O. membership card if he had one available. Castman gave him a card and Jense filled it out. Castman noticed, however, that he had not written in the date and proceeded to do so himself. A man whom he recognized as a company policeman pushed Jense out of the way and struck him with a black jack on the side of his face. Castman testified:

> "When he hit me with the black jack, I stumbled backwards and fell in the gutter alongside of the sidewalk . . .
>
> He jumped on me with his knees in the pit of my stomach, started beating me over the head and the arms and the hands with a black jack. He says, 'God damn you, here is some of Cap's Union. . . .'
>
> I had my hands over my head. I was trying to protect my head and he continued beating me with this black jack. Every time he would hit me he would say 'uh-uh . . .' "

As a result of the beating Castman suffered severe injuries and spent 16 days in the hospital.

William Sikorski, who had previously been employed at the Corrigan, McKinney plant, spoke to Krause in April 1937 regarding a job. Before he was put to work, however, he was subjected to an interview with Captain Jones who

was called in by Krause. Krause pointed to Sikorski and said, "There is your man." Jones examined Sikorski's application card, commented on the number of his children, and stated that the respondent would see to it that he had work to support his family. He then inquired about the men he had formerly worked with in the 10 and 12 inch mill. Sikorski mentioned a few names. Jones remarked, "Yes, everyone of those boys are all on thin ice. I would not give you five cents for any one of their jobs . . . They are running around the mill, over there, and they are organizing the fellows into the CIO, and we are not going to stand for it." He said further, "Now, I want you to go over to work over there and I want you to keep your nose clean of the CIO because . . . we are never going to recognize them. Balint and Danitz, a couple of Communists, will never tell Republic Steel how they are going to run their corporation."

In addition to the foregoing activities, the respondent, in combating the growth of union sentiment among its employees, attempted to spread propaganda in favor of the Plan and against the C. I. O. Thus, at a Plan banquet staged in October by Wakefield, the Management Representative, Wakefield delivered a speech in which he extolled the Plan, stated that the principal task was to keep the C. I. O. out of the plant, and requested the assistance of the Employee Representatives in doing so. Likewise, petitions were circulated within the plant expressing faith in the management and satisfaction with the Plan. Again, Babich testified that at a Plan meeting or banquet he received a photostatic copy of an article by Chesly Manly in the Chicago Tribune which attempted to discredit the C. I. O. by denouncing its objectives as communistic.[64] And John

64. The article, dated March 28, 1937, appears under the heading "SEE C. I. O. DRIVE AS COMMUNIST IN ITS OBJECTS." The first paragraph, indicating the tenor of the article, reads as follows:

"The industrial union drive of John L. Lewis' Committee for Industrial

Sabol, an Employee Representative, testified that at a Plan conference which was attended by a number of company officials, White, vice president of operations, delivered a speech characterizing the C. I. O. as neither an American nor a responsible type of organization.

(c) *The Employees' Representative Association*

The Employees' Representative Association was formed after April 13 when Wakefield announced at a meeting of the Plan that the respondent would henceforth be unable to furnish the Plan with financial support. The old Plan, however, was never formally dissolved. John Sabol testified that the Association contemplated the adoption of the bylaws under which the old Plan operated. The record contains no evidence that any other bylaws were formulated which would tend to make the Association independent of the respondent's control. Although some discussion was had regarding the question of assessing membership dues in the Association, there is no evidence that dues were in fact assessed or contributed by employees. There is nothing by which to distinguish the Association from the Plan except that membership was apparently no longer automatic upon voting for a Representative but depended upon the signing of membership cards. The character of the Association membership drive, which took place on the respondent's time and property, further attests to its domination by the respondent.

James C. Quinn, an inspector in the 12 inch finishing mill testified that Harold Sisk, an Employee Representative, distributed membership cards within the mill and ex-

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Organization which has brought the current epidemic of sitdown strikes, is essentially a communist movement and has been advocated as the first step in a program to overthrow the government of the United States and set up a soviet dictatorship ever since the communist party of America was officially organized at Woodstock, N. Y., in May, 1921."

plained the purpose of the Association. On another occasion Art Lawton, the turn superintendent, ordered every man in the mill to go into the office. On the desk in the office were a large number of membership cards, and as the men entered cards were thrust upon them. Quinn testified to the following altercation which he had with Lawton:

> " 'Mr. Lawton,' I says, 'What authority have you got standing up there and chasing them men in there?' I says, 'The Supreme Court has just signed the Wagner Relations Act.' I says, 'you haven't a damned bit of business standing up there making them men sign up.' I says, 'The only reason they sign up, if they don't sign it, you will turn them in to their bosses in the morning,' and I says, 'You know what that means, he would come out here and lay them off again like he always does.'
>
> 'Well,' he says, 'the Wagner Labor Relations Act is like everything else,' he says, 'it don't mean a damn thing.'
>
> Then he went on to tell me about me and my bunch of communist friends, John L. Lewis all the way down, he raked them all over the boards . . . "

At about the same time the members of the Plan Sanitation Committee, which had on its schedule a tour of inspection of sanitary conditions, were called into Wakefield's office where Wakefield, May, the Chairman of the General Committee, and Grimm, the Secretary of the General Committee, were present. Wakefield placed a package containing Association membership cards on the table, and said, "Well, we got to get started with this some time or other and we might as well get started now." In consequence, the Committee, instead of making an inspection tour, solicited employees to sign membership cards.

The employees, however, manifested reluctance to join the Association. Sabol testified that Tull, the superintendent of the electrical department, complained to him about the low percentage of employees in his department who had joined. Tull also summoned Nutting, the foreman of the construction gang, and inquired what the trouble was. Nutting stated that he had a couple of men whose example the rest of the employees seemed to follow, and expressed the opinion that only riddance of them would help matters. Sabol testified that in compliance with Tull's request he made further attempts to prevail upon the employees to join the Association but failed to get any signatures. No deduction was made from Sabol's pay for the time spent in this work. [65]

On the basis of the foregoing facts and the record as a whole, we find that the respondent has dominated and interfered with the formation and administration of the Employees' Representative Association.

3. *The Strike*

The strike in Cleveland commenced on May 26. During the strike, the respondent again resorted to the dissemination of literature among its employees calculated to discredit the C. I. O. and to break the strike. Girdler issued for distribution to the employees the statement of June 15 (quoted *supra*), which attacks the C. I. O. as an irrespon-

65. About a week before the strike a new organization, styled The Republic Employees' Association, Corrigan, McKinney Division, came into existence. Relative to this organization, David Mac Means, an employee at the Corrigan, McKinney plant, testified that shortly prior to the strike he was summoned into the office of Eckert, a foreman, and asked to sign a membership card in the Republic Employees' Association. Eckert explained to him that the men were initiating this organization of their own volition and indicated that it would be to Mac Means' best interests to sign the card. Thereafter, Eckert told him, "You better make up your mind to join the Republic Employees Association . . . because all of you fellows are going to belong to it before the end of May." Mac Means also testified that on two occasions he saw notices posted on the bulletin board announcing meetings of the Republic Employees' Association.

sible and communistic organization. Also the respondent prepared a reprint (referred to *supra*) of anti-C. I. O. articles culled from various newspapers and entitled, "What the Editors are saying about the Republic Strike." John Exall testified that he received through the mails copies of both the statement issued by Girdler and the reprint.

F. THE CENTRAL COUNCIL OF EMPLOYEE REPRESENTATIVES

Our previous discussion renders superfluous a detailed analysis of the Central Council. It was informally instituted in the fall of 1936 when Employee Representatives from the respondent's plants in nine districts met with representatives of the management in the respondent's offices in Cleveland. After a second meeting at the same place on March 8, 1937, at which representatives of the management were present and participated, provisions for the participation of Employee Representatives in Central Council meetings were formally incorporated in the proposed revision of the Plan and later in the amended Plan, which was adopted on April 22, 1937. All the expenses of these meetings, including the meals, transportation expenses and salaries of Employee Representatives, were defrayed by the respondent.

On August 2 and 3, 1937, the Chairman of the Central Council called a meeting of the Independent Association of Republic Employees of Massillon to discuss the adoption of constitution and bylaws for the latter organization. Nick Linckenhely, who attended this meeting as a delegate, testified that the respondent paid none of its expenses and that he attended at his own expense.

The function of the Central Council, as already indicated, was to "back the Management in opposition to all outside labor organizations." It was composed in part of

representatives of the management, at least until April 1937, and in part of Employee Representatives and officers of the various labor organizations at the plants in the Massillon, Canton, Youngstown, Warren and Cleveland districts, which, we have found, were dominated and controlled by the respondent. Under these circumstances, the Central Council could not represent the free choice of the employees. We find that the respondent has dominated and interfered with the formation and administration of the Central Council of Employee Representatives and has contributed financial and other support to it.

IV. THE CAUSES OF THE STRIKE

The respondent in its answer asserts that the strike was called without any cause or justification and solely for the selfish benefit and advantage of the S. W. O. C. and the C. I. O. in an attempt to gain control of the respondent's employees and all steel company employees, and that there was no labor dispute between the respondent and its employees and no difference as to wages, hours, and working conditions.

From the facts recited in Section III, we think it clear that the underlying cause of the strike, and a substantial factor in its precipitation on May 25 and 26, was the respondent's campaign to crush the Union by means of the unfair labor practices set forth above. The respondent's conduct falls squarely within the findings of the Congress in Section I of the Act, "The denial by employers of the right of employees to organize and the refusal by employers to accept the procedure of collective bargaining lead to strikes and other forms of industrial strife or unrest . . ." The record shows that ever since the inauguration of the Plan in June 1933, the respondent had made plain its policy of complete antagonism to the self-organization of the em-

ployees and its determination to forestall or destroy any such organization by all means at its command. On July 2, 1936, shortly after the advent of the S. W. O. C., the respondent reiterated this basic policy in a public statement, and immediately and ruthlessly put it into effect. Its spies shadowed union organizers; its police attacked and beat them; its superintendent and foremen threatened, laid off and discharged employees for union activities; its officers fostered and supported a whole series of puppet labor organizations which the respondent manipulated to oppose the Union; and its chairman and president publicly vilified the Union's leaders, purposes and policies under circumstances intended to throw the weight of his influence against his employees' efforts at self-organization. Finally in May 1937 there occurred a series of events which precipitated the strike.

On May 3 the S. W. O. C., by Clinton Golden, wired the respondent that widespread unrest prevailed among its employees over the uncertainty of the respondent's position regarding a signed collective bargaining contract, that this unrest had been accentuated by the lay-off of several hundred Union members at the Canton and Massillon Works, and that "unless we can have definite assurance from you with date for conferences to negotiate written contract without further delay we shall be obliged to disavow all responsibility union members in your mills remaining at work." On May 5 the respondent replied to Golden's telegram that "in view of Wagner Act see no necessity for signed contract. The policy of this company . . . is that it is willing to meet with anyone to bargain with him for whomsoever he represents . . . Will meet with you at any time mutually convenient for collective bargaining purposes."

The complaint does not allege that the S. W. O. C. represented a majority of the employees in any or all of the

respondent's plants at this time, or that the respondent's refusal to sign the S. W. O. C. agreement constituted a refusal to bargain collectively within the meaning of Section 8, subdivision (5) of the Act. Nevertheless, it is plain that the manner and expression of the respondent's refusal to deal with the S. W. O. C. constituted interference, restraint and coercion of its employees in their right to self-organization and collective bargaining. The respondent on numerous occasions announced, as its reasons for refusing to sign the agreement with the Union, that it favored the Plan as a successful method of collective bargaining, that it would not tolerate any interference with this successful relationship between management and employees, and that the Union was communistic, corrupt, repressive and irresponsible. Further, on numerous occasions the respondent's superintendents and foremen had announced to meetings of employees that, for the same reasons, the respondent would never sign any contract with the Union. This position was announced in such language as the following: "Regardless if every man in here joins a union, we are not going to recognize it. We are not going to sign any contract. We are not going to have no . . . collective bargaining." "We will shut the mill up and board it up before we will sign with the C. I. O." We think it clear that these repeated statements and the unrest created thereby, to which Golden referred in his telegram, were a contributing and substantial cause of the strike which occurred on May 25 and 26.

On May 5, immediately after replying to Golden's telegram, the respondent shut down its tin plate mill at Canton and locked out almost all of its employees, with the threat that the mill would not reopen "until we got rid of that union." Upon the break-down of negotiations between the respondent and the S. W. O. C. on May 11, the Employee Representatives, with the respondent's support, intensified

their attempts to obtain membership for the newly formed successors to the Plan, and conducted meetings in Canton, Massillon, Youngstown and Warren, for the purpose of preparing for a strike and organizing opposition to it. On May 20, under the circumstances described above, the respondent shut down its Massillon Works, locked out its employees, and taunted the president of New Deal Lodge No. 1124 with its illegal conduct: "When we get through starving you out, you won't want to strike."

By these acts, the respondent served final notice in unmistakable terms that it was prepared to go to extreme lengths to destroy the Union and to deny to its employees the rights guaranteed in the Act. Faced with this illegal and provocative conduct, the Union called the strike, not as the respondent alleged, without cause or justification, but because in fact no other course remained open to it. The whole history of the respondent's unfair labor practices, culminating in this lock-out on May 20, had placed the Union in a position where it had to fight for its life or be destroyed. The respondent, not the Union, had chosen the way of industrial strife.

In its brief the respondent takes the position that the sole cause and only issue in the strike was the respondent's refusal to sign an agreement with the Union. It is true that the respondent's refusal to sign an agreement—which is not alleged or found to be an unfair labor practice in this case—was important in precipitating the strike. But this action on the part of the respondent cannot be divorced from its whole previous campaign to crush the Union through unfair labor practices. And, as stated above, basically it was that campaign which underlay and made inevitable the strike.

Further, the significance of the Union's insistence upon an agreement should not be misunderstood. To the em-

ployees attempting self-organization the proposed agreement involved much more than a fixing by contract of certain wages, hours and working conditions. Indeed, the respondent contended that the provisions of the proposed contract were no more favorable to the employees than the conditions already existing in its plants. As the provision in the proposed agreement for recognition of the Union demonstrates,[66] the agreement was intended to mark the acknowledgement by the respondent of the right of its employees to organize without interference and the cessation by the respondent of its unfair labor practices. Thus the Union's demand for an agreement represents to a large extent merely one aspect of the demand of the employees for freedom in self-organization and emphasizes, rather than contradicts, our analysis of the causes of the strike.

We conclude, therefore, that although the respondent's refusal to sign the agreement presented by the S. W. O. C. was in part the immediate cause of the strike, the fundamental cause of the strike, and a substantial factor in its precipitation on May 25 and 26, was the long series of unfair labor practices which occurred prior to the strike as set forth in Section III above.

The respondent, in its motion to reopen the record for the taking of further evidence, asserts that the record herein contains no evidence tending to establish that the strike was caused directly or indirectly by any of the unfair labor practices set forth above, but that, on the contrary, all of the evidence in the record relating to this subject discloses that the strike was caused solely and proximately by the refusal of the respondent to sign a form of written agree-

66. "Section 2—Recognition—The Corporation recognizes the Union as the collective bargaining agency for those employees of the Corporation who are members of the Union. The Corporation recognizes and will not interfere with the right of its employees to become members of the Union. There shall be no discrimination, interference, restraint or coercion by the Corporation or any of its agents against any members because of membership in the Union . . ."

ment presented by the S. W. O. C., which was not alleged or found to be an unfair labor practice. The respondent also asserts that the burden of proof, as to the cause of the strike, was upon the Board, that the Board has failed to sustain its burden, and that the additional evidence which the respondent seeks to offer conclusively removes any doubt that might otherwise exist as to the actual, sole, and proximate cause of the strike.

These contentions of the respondent do not constitute grounds for reopening the record. The respondent does not assert that newly discovered evidence upon the issue is now available, or that it was denied an opportunity at the hearing before the Board or the Trial Examiner to adduce the evidence now offered. On the contrary, counsel for the respondent admitted at the oral argument before the Board that all the evidence which it now seeks to introduce on this issue was available at the time of the hearing and was not offered. It also appears that at the hearing before the Trial Examiner in Cleveland the respondent did, in fact, introduce evidence, similar to that which it now seeks to introduce, in support of its theory that the strike was caused solely by its refusal to sign the agreement proposed by the S. W. O. C. It further appears from an examination of the respondent's offer to prove, accompanying the motion to reopen, that none of the proffered evidence relied on as conclusively removing doubts as to the cause of the strike is inconsistent with the evidence in the record or would alter our finding thereon as to the basic causes of the strike. For these reasons, the respondent's motion to reopen the record for the taking of further evidence upon this issue is denied.

The respondent excepts to our finding on this issue for the further reason that a variance, asserted to be fatal, exists between the allegations in the complaint, and our findings, as to the cause of the strike. This exception is

without merit. As set forth above, the complaint alleges, and the answer denies, that the respondent discharged and refused to reinstate certain named individuals (paragraphs 3 to 9); that the respondent locked out and failed or refused to reinstate employees at its tin plate mill in the Canton plant and at its Massillon plant (paragraphs 10 to 15); and (paragraph 16) that "by reason of the conduct of the respondent set forth above in paragraphs 3 to 15 inclusive (all of which was duly alleged to constitute unfair labor practices within the meaning of the Act) and by reason of the respondent's refusal to enter into a written agreement with the S. W. O. C. (not alleged to constitute an unfair labor practice within the meaning of the Act), attempts to negotiate which had theretofore been made by the S. W. O. C., the employees of the respondent at its various plants on or about May 26, 1937, went out on strike." The answer, as an affirmative defense to paragraph 16 of the complaint, sets forth that the strike was called by the S. W. O. C., acting pursuant to the direction of the C. I. O., without any cause or justification but solely for the selfish benefit and advantage of the S. W. O. C. and the C. I. O., in an attempt to gain control of the employees of the respondent and, generally, of all steel company employees. The succeeding paragraphs of the complaint, numbered 17 to 41, allege, and the respondent's answer correspondingly denies, that the respondent has engaged and is engaging in further unfair labor practices within the meaning of the Act, both before and after the strike. At the close of the hearing the Trial Examiner granted a motion by the attorney for the Board, without objection or exception from the respondent, that the pleadings be conformed to the proof.

Thus the complaint, the answer, and the affirmative defense to paragraph 16 of the complaint put in issue the causes of the strike. At the hearing the evidence relating to

all the unfair labor practices alleged to have occurred before the strike, including those not mentioned in paragraph 16, clearly involved the basic reasons for the strike. It is plain, therefore, that the hearing as a whole raised the general issue of the causes of the strike. That issue was adequately tried out and the respondent had full opportunity to, and did, introduce all the evidence it then desired with respect to it. Therefore, the fact that the Board finds that the strike was caused not only by the specific unfair labor practices mentioned in paragraph 16 of the complaint, but also by other unfair labor practices, does not constitute a variance which could have prejudiced the respondent. Further, any variance which might have existed was cured by the motion of the Board's attorney to conform the pleadings to the proof.

Moreover, the exception should be overruled on other grounds. The significance of the Board's findings with respect to the cause of the strike lies in the fact that where the Board finds that a strike has been caused in whole or in substantial part by an employer's unfair labor practices it may, in order to effectuate the policies of the Act, require the employer to reinstate the strikers upon application. (See "The remedy" *infra.*) Here we think it clear from what has already been stated that the specific unfair labor practices mentioned in paragraph 16 of the complaint were, in themselves, a substantial, contributing cause of the strike. Consequently, even if the other unfair labor practices are left out of consideration, the Board would still have power under the Act to order the reinstatement of the strikers. The respondent, of course, had full opportunity to meet the claim that the strike was caused in part by the unfair labor practices referred to in paragraph 16; it also had full notice that the Board would require the reinstatement of strikers if such claim was sustained. (See "The remedy" *infra.*) Any variance or misunderstanding, there-

fore, as to this issue, would not have prejudiced the respondent.

We conclude that the respondent has not been denied any substantial right. Its contention that a fatal variance exists between the pleadings and proof must be rejected as purely technical. For these reasons the exception is overruled.

V. THE EFFECT OF THE UNFAIR LABOR PRACTICES ON COMMERCE

We find that the activities of the respondent set forth in Section III above, occurring in connection with the operations of the respondent, described in Section I above, have a close, intimate and substantial relation to trade, traffic and commerce among the several States and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

Upon the basis of the foregoing findings of fact and upon the entire record in the proceeding, the Board makes the following:

CONCLUSIONS OF LAW

1. Steel Workers Organizing Committee and Amalgamated Association of Iron, Steel and Tin Workers of North America are labor organizations within the meaning of Section 2, subdivision (5) of the Act.

2. The Plans of Employee Representation and their successors—the Employees' Representative Association, the Back-to-Work Committee, and the Independent Association of Republic Employees at Massillon; the Employees' Representative Association, the Back-to-Work Committee, and the Steel Workers Union of America at Canton; the

Employee Representation Plan, the Independent Federation of Republic Employees, and the Back-to-Work Committee at Youngstown; the Employees' Independent Association of Warren; and the Employees' Representative Association at Cleveland—and the Plan of Representation of Employees at the Canton tin plate mill and the Central Council of Employee Representatives, are labor organizations within the meaning of Section 2, subdivision (5) of the Act.

3. By its domination and interference with the formation and administration of the labor organizations named in paragraph 2 above, and by its contribution of financial and other support thereto, the respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8, subdivision (2) of the Act.

4. By discriminating in regard to the hire and tenure of employment of Peter Mouyios, Victor Arias, Mike Ugranovich, Will S. Wright, Sabri Shaban, George Troyanovich (referred to later as group A); John Lazar, Michael Krill, Balare Chismus, William A. Haren, Charles Neverdusky, Anthony Martin De Long, Hallie P. Hite, Richard Green (referred to later as group B); Thomas Cikah, John Popik, Frank Pirichy, Michael Naletrich, Wilbert Neuman (referred to later as group C); Thomas White, Charles Bernard Fagan, John Exall, John Petak, Mathew Babich, Gaetano Armeli, Fred Korecky (referred to later as group D); and each of them, the respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8, subdivision (3) of the Act.

5. By closing the Canton tin plate mill on May 5 and the Massillon Works on May 20 and thereby discriminating in regard to the hire and tenure of its employees at those plants, the respondent has engaged and is engaging in unfair labor practices within the meaning of Section 8, subdivision (3) of the Act.

6. By its espionage, shadowing, and beatings of organizers and active members of the Union; its announcements, before and after the presentation by the Union of its proposed agreement, that it would not sign any contract with the Union; its statements to its employees attempting to vilify and discredit the Union; its threats to discharge Union members and to close its plants before recognizing the Union, and its other threats and warnings to employees regarding the Union; its attempts to turn civil authorities, business and other interests against the Union in order to further its own anti-Union activities; its incitement of violence and hysteria, in order to terrorize Union adherents; its donation of tear and vomiting gas to the City of Massillon; its support to the Law and Order League of Massillon and the Back-to-Work Committees in Massillon, Canton, and Youngstown; its activities in connection with the incident at C. I. O. headquarters at Massillon; its lay-offs, discharges and lock-outs as stated above; its activities in connection with the above-named labor organizations; and by each of such acts, the respondent has interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act and has engaged in and is engaging in unfair labor practices within the meaning of Section 8, subdivision (1) of the Act.

7. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2, subdivisions (6) and (7) of the Act.

8. The respondent has not engaged in an unfair labor practice within the meaning of Section 8, subdivision (3) of the Act with respect to Harry Rigby.

THE REMEDY

The respondent having engaged in unfair labor prac-

tices, we shall order it to cease and desist therefrom and to take certain affirmative action which we find necessary to effectuate the policies of the Act and to restore as nearly as possible the situation that existed prior to the commission of the unfair labor practices and which would have existed except for them.

The respondent has unlawfully sponsored and supported various labor organizations discussed above. These organizations cannot, in view of the circumstances, operate as a true representative of the employees, and we shall order the respondent to withdraw recognition from them and to disestablish them as such representative.

The respondent has also unlawfully discriminated against its employees by locking them out at the Massillon Works and the Canton tin plate mill. To remedy this illegal conduct, we shall order the respondent to pay the employes involved back pay for the period during which they were deprived of employment.

We have found that the respondent has unlawfully laid off, discharged, and refused reinstatement to certain employees. In accordance with our usual practice, we shall order the reinstatement of such employees with back pay for losses suffered by reason of the respondent's unlawful acts.

We have also found that the strike at the respondent's plants, which was still in effect at the time of the hearing, was caused fundamentally by the respondent's unfair labor practices. In previous cases of this character we have required the employer to reinstate the striking employees, upon application, to their former or substantially equivalent positions. We find this requirement appropriate and necessary to effectuate the purposes of the Act in this case. In order to protect the right of the respondent's employees to "full freedom of association, self-organization, and des-

ignation of representatives," as guaranteed by the Act, it is essential that the respondent be required not only to cease and desist from its unfair labor practices but so far as possible to repair the damage occasioned by such unlawful acts. The most effective method of restoring the situation to that existing prior to the respondent's unfair labor practices, and thereby assuring all the respondent's employees full freedom in self-organization and collective bargaining, is to reinstate to their former positions those employees who have gone out on strike as a consequence of the respondent's unlawful conduct.

The Board's power, derived from Section 10 (c) of the Act, to order such reinstatement is dependent upon the finding that the respondent's unfair labor practices were the fundamental or substantial, contributing cause of the strike of its employees. Where the respondent's refusal to sign the proposed agreement—not alleged or found to be an unfair labor practice—is also a factor in causing the strike, it rests upon the respondent to disentangle the consequences for which it is responsible from those from which it is immune. As set forth above, however, the record shows that the respondent's refusal to sign the proposed agreement is inextricably bound up with its unfair labor practices and was, in effect, a refusal to abandon its studied policy of interference with the right of its employees to self-organization. It may be that if the respondent had signed the proposed agreement, the strike would not have occurred; but since the respondent cannot show that it could have signed the agreement without abandoning its unfair labor practices, it cannot show that the loss of the men's jobs was caused by a controversy which the Act does not attempt to regulate, or that the Board is not empowered to order reinstatement upon finding that the respondent's unfair labor practices were the fundamental or a substantial, contributing cause of the strike.

The order of reinstatement may be based either upon the finding that the strike was fundamentally caused by all the respondent's unfair labor practices occurring prior thereto, or upon the finding that those unfair labor practices enumerated in paragraph 16 of the complaint were in themselves a substantial and contributing cause of the strike.[67] No material question of variance between pleadings and proof arises with respect to this issue.

The respondent contends, however, that acts of violence by individual strikers renders such reinstatement inequitable in this case and would defeat rather than effectuate the purposes of the Act. At Massillon and Canton, where counsel for the Board introduced testimony that picketing by the strikers was peaceful, the Board and the Trial Examiner permitted the respondent to adduce testimony in rebuttal that certain named striking employees, as well as other unidentified persons alleged to be members of C. I. O., had carried sticks and clubs, cut a telephone wire, blocked roads, intimidated and beaten several members of the Canton Back-to-Work Committee and other non-strikers, and had in certain respects violated an injunction issued on or about June 25, 1937, by the Court of Common Pleas of Stark County. In Youngstown, Warren, and Cleveland, where counsel for the Board introduced no testimony on the issue of peaceful picketing, the Trial Examiner excluded testimony that strikers had committed acts of violence, but permitted the respondent to file written offers of proof setting out such testimony in detail. On March 19, 1938, the Board denied a motion by the respondent for leave to introduce additional evidence relating to violence, but granted its alternative motion for leave to submit and have incorporated in the record as a part thereof, evidence, *inter alia*, that certain named strikers, after

67. See *National Labor Relations Board v. Remington Rand, Inc.*, 94 F. (2d) 862, 872 (C. C. A. 2) cert. denied 58 S. Ct. 1046.

the close of the hearing in this case, had pleaded guilty to indictments for various crimes committed in connection with the strike. On August 6, 1938, the respondent filed a motion to reopen the proceeding, herein denied, and an alternative motion, herein granted, to have incorporated in the record specified offers to prove, setting forth, *inter alia*, that in Massillon 15, in Canton 25, and in Cleveland 11 "strikers, pickets, or persons affiliated with the S. W. O. C. or the C. I. O." had pleaded guilty to, or had been convicted of, unlawful acts during the strike.

In our opinion evidence that the strikers committed acts of violence is relevant on the issue of whether it would effectuate the policies of the Act to order their reinstatement. We will therefore take into consideration evidence of convictions and pleas of guilty of acts of violence committed by individual strikers in connection with the strike. In a case of this sort, however, we will not attempt to try before the Board accusations of violence which did not result in convictions or sentences upon pleas of guilty.

To receive evidence upon such matters would raise a mass of collateral issues which the Board is not equipped to handle. The Board, of course does not have the facilities for investigation and prosecution of acts of violence that the local law enforcement agencies possess. Nor, as an administrative matter, can the Board attempt to determine the merits of allegations of several hundred various crimes.

We think also that the Board is entitled to rely upon the local law enforcement agencies for proof of such matters. The record shows that the police and prosecuting authorities of various cities were active throughout and after the strike. Numerous arrests were made and many convictions obtained. Under these circumstances the Board is inclined to feel that it can presume that any significant crime committed was investigated by the proper authori-

ties and, if adequate evidence was found, was prosecuted by them. As a result, especially in view of the administrative difficulty of trying such collateral issues, the Board will not go into alleged acts of violence of individual strikers beyond accepting the offer of proof, and taking judicial notice, of convictions and pleas of guilty.

It should be noted that the reasons for excluding testimony, but admitting pleas of guilty or convictions, with regard to acts of violence by employees, do not apply in the case of testimony concerning similar acts by the respondent. Such testimony relates to whether the respondent has interfered with, restrained, or coerced his employees in their right to self-organization and collective bargaining, and has thereby engaged in unfair labor practices within the meaning of the Act. Consequently, it raises direct, not collateral, issues which it is our proper duty to determine.[68]

We therefore affirm the rulings of the Trial Examiner in this matter.[69]

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68. That such a conclusion is in accordance with the clear intent of the Congress may be seen from the Reports of the Senate and House Committees in considering the reasons for confining the Act to unfair labor practices by employers. Thus the Senate Committee on Education and Labor, in reporting the bill to the Senate, said: "The bill is not a mere police court measure. The remedies against such acts (fraud and violence) in the State and Federal courts and by the invocation of local police authorities are now adequate, as arrests and injunctions in labor disputes throughout the country will attest . . . In addition, the procedure set up in this bill is not nearly so well suited as is existing law to the prevention of fraud or violence. Deliberations and hearings by the Board, followed by orders that must be referred to the Federal Courts for enforcement are methods of procedure that could never be sufficiently expeditious to be effective in this connection. The only results of introducing proposals of this sort into the bill, in the opinion of the committee, would be to overwhelm the Board with countercharges and recrimination that would prevent it from doing the task that needs to be done." (Sen. Rep. No. 573, 74th Cong. 1st Sess. (1935) 16, 17. See also H. R. No. 1147, 74th Cong. 1st Sess. 1935, 16.)

69. At Youngstown the respondent offered to prove that "six members or former members of the C. I. O." had pleaded guilty to the possession and use of explosives; and, at Cleveland, that two individuals had pleaded guilty to police court offenses. In excluding such evidence, the Trial Examiner was in error. In view, however, of the fact that we take judicial notice of

We come now to an examination of the evidence which we deem admissible upon this issue.

An analysis of the convictions and pleas of guilty in all of the respondent's offers to prove, of which we take judicial notice,[70] supplemented by an examination of the criminal dockets of the Municipal Courts of Massillon, Canton, Niles, and Cleveland, the Courts of Common Pleas of Trumbull, Mahoning, Stark, and Cuyahoga Counties, and the United States District Court for the Northern District of Ohio, Eastern Division, at Cleveland, shows that in Youngstown seven "members or former members of the C. I. O." were indicted for the "possession and use of explosives," a felony; that three pleaded guilty to the indictment and received sentences of 1 to 20 years in the Ohio penitentiary; that three others who pleaded guilty to the indictment were placed on probation for 5 years; and that one pleaded guilty to "malicious destruction of property to the value of $300," a felony, and was fined $300 and costs. It also appears that in Cleveland four "strikers, pickets, and persons affiliated with the S. W. O. C. and the C. I. O." were found guilty of "possession of a bomb," a felony, and received sentences of 1 to 20 years in the Ohio penitentiary. It further appears that nine "members of lodges or unions affiliated with the C. I. O. and the S. W. O. C." pleaded guilty to indictments for "unlawfully obstructing and retarding the passage of the United States Mail," a misdemeanor; that six received suspended sentences of 6 months in jail and were placed on probation; that two received sentences of 30 days in jail and costs;

these pleas of guilty in the offer to prove and give them due weight in our consideration of the purpose for which they are offered, the error is not prejudicial.

70. The full purpose of the respondent's motions to reopen the proceedings to introduce evidence that strikers have pleaded guilty to and were convicted of unlawful acts during the strike is served by our judicial notice of these pleas of guilty and convictions, as set forth in the respondent's offers to prove. It is therefore unnecessary to reopen the record to receive these matters.

and that one received three sentences, to run concurrently, of 60 days in jail and costs. It further appears that 144 "strikers, pickets, individuals, members of, or persons affiliated with, lodges or unions affiliated with the C. I. O. and the S. W. O. C."[71] entered pleas of guilty to, or were found guilty of, the following offenses:

Intoxication (a misdemeanor)[72]	1
Intoxication and violation of court order (a misdemeanor)[73]	1
Threatening in a menacing manner (a misdemeanor)[74]	1
Suspicious person (a misdemeanor)[75]	4
Disturbing the peace (a misdemeanor)[76]	4
Disorderly conduct (misdemeanor)[77]	7
Interference with a police officer (a misdemeanor)[78]	3
Discharging firearms (a misdemeanor)[79]	3

71. The respondent did not allege and the record does not disclose that more than five of the individuals who entered pleas of guilty or were convicted as set forth in the offers to prove were employees of the respondent. We shall assume, however, that all individuals alleged to be strikers, pickets, members of unions, or persons affiliated with the C. I. O. or the S. W. O. C. are employees of the respondent.

72. He was fined $15 and costs.

73. He was fined $25 and costs.

74. He was fined $15 and costs.

75. All four were fined $15 and costs.

76. One was fined $10 and costs, but the fine was suspended; two were fined $15 and costs; one was fined $25 and costs.

77. Four were fined $10 and costs, but the fine was suspended in two cases; one was fined $15 and costs; one received a sentence of $50, costs, and 30 days which, except for $10, was suspended on good behavior; one received a fine of $25 and costs which, except for $10, was suspended on good behavior.

78. One was fined $5 and costs; one was fined $10 and costs but the fine was suspended; one was fined $15 and costs.

79. Two were fined $10 and costs; one was fined $25 and costs and received a sentence of 30 days, but was committed to the workhouse for 9 days, during which time he worked out both the fine and the sentence.

Assault and battery (a misdemeanor)[80]	21
Rioting, assembling together to do an unlawful act (a misdemeanor)[81]	72
Malicious destruction of property (a misdemeanor)[82]	7
Unlawfully interfering etc. with telegraph or telephonic messages (a misdemeanor)[83]	1
Transporting explosives (a misdemeanor)[84]	1
Interfering with and obstructing railway tracks (a felony)[85]	5
Carrying concealed weapons (a felony)[86]	13

80. One was sentenced to pay the costs, but the costs were suspended; one was fined $25 and costs; nine were fined $25 and costs and given suspended sentences of 30 days in the county jail; one was fined $200 and costs, given a suspended sentence of 6 months in the county jail, and placed on probation for 1 year. Two were fined costs; two were fined $15 and costs; one received a suspended sentence of $5 and costs and 10 days; one received a suspended sentence of $10 and costs and 10 days; one was fined $10 and costs and received a suspended sentence of 10 days; one received a sentence of 30 days; one was fined $10 and costs.

81. Sixty-seven pleaded guilty, were fined $25 and costs, and given suspended sentences of 30 days in the county jail; five were found guilty, were fined $10 and costs, but the costs were suspended.

82. Six pleaded guilty to "Malicious destruction of property to the value of $50"; of these five were fined $50 and costs, and given suspended sentences of 60 days in the county jail; one was fined $300 and costs and given a suspended sentence of 30 days in the county jail. One pleaded guilty to "Malicious destruction of property to the value of $15," was sentenced to 30 days and costs, and was committed to the county jail on June 11, 1937, but his sentence was suspended on June 17, 1937, on condition that he refrain from picketing. One other was arrested for "Malicious destruction of property to the value of $6"; the charge was withdrawn but he was required to pay costs.

83. He was fined $250 and costs, and sentenced to stand committed to the county jail until fine and costs were paid.

84. He was fined $100 and costs and sentenced to stand committed to the county jail until the costs were paid.

85. All five were fined $50 and costs and given suspended sentences of 60 days in the county jail.

86. Nine were fined $50 and costs and given suspended sentences of 60

With the exception of the six men who pleaded guilty to the possession and use of explosives, the one man who pleaded guilty to the malicious destruction of property to the value of $300, and the four who were found guilty of possession of a bomb, we cannot concur in the suggestion that the foregoing individuals should be denied reinstatement. The Board's power of reinstatement is discretionary in nature, to be exercised in the light of all the circumstances of the case in the manner best calculated to effectuate the purposes of the Act. We have already indicated the compelling reasons for ordering the reinstatement of employees who go out on strike caused in whole or in part by the employer's unfair labor practices.[87] The respondent's argument for denying reinstatement in this case comes down to the contention (1) that the individuals guilty of violence are no longer suitable employees, and (2) that the reinstatement of such employees would tend to encourage violence in industrial disputes. In our opinion these contentions are not supported by the record in this case (except for the 11 men mentioned above) and are therefore wholly insufficient to outweigh the factors which persuade us to order reinstatement.

It must be remembered that the acts of which the respondent complains were committed by strikers in the heat and turmoil of bitter industrial strife in which the threat of violence on the part of the respondent against the strikers was ever present and frequently carried into execution; that the strike was brought on fundamentally by the respondent's own unlawful acts; that the respondent had itself been guilty of brutal acts of violence in the period

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days in the county jail. Two received suspended sentences and were placed on probation for 2 years and fined costs; one was sentenced to 3 months in the county jail, to stand committed until the costs were paid, but was placed on probation and only served out the costs; one was sentenced to 90 days in the county jail, to stand committed until the costs were paid.

87. See *Matter of Remington Rand, Inc.*, Case No. C-145, 2 N. L. R. B. 626, 94 F. (2d) 862 (C. C. A. 2); cert. denied, 58 S. Ct. 1046.

of organization preceding the strike; and that the respondent itself committed or was responsible for acts of violence during the strike far more serious than those attributed to the strikers in question. Under these circumstances, in the case of all but 11 of the strikers, we find no warrant in the gravity of their crimes, or in the severity of their sentences, for believing that they would not be as fit to work for the respondent now as they were before the strike. Furthermore, although the respondent refused to reinstate certain employees at Youngstown and elsewhere, allegedly for the reason that they had carried sticks or clubs on the picket line, it paid a bonus to the members of the Back-to-Work Committee of guards at Canton for patrolling the city armed with shotguns, and reinstated all such employees without question. In view of this discrimination, we are compelled to conclude that the real motive behind the respondent's refusal to reinstate striking employees was their union affiliation rather than an honest belief that by carrying sticks and clubs on the picket line they had proved themselves unfit for reemployment.[88]

Finally, the respondent, by engaging in the unfair labor practices described in Section III above, has itself violated the law of the land and thereby caused the strike of its employees in which the acts of violence occurred. While the Act imposes no criminal penalties for these unfair labor practices, it expresses an important national policy, in the light of which the respondent's illegal course of conduct must be judged and the consequences of that conduct determined.

For these reasons, it does not lie in the mouth of the respondent to assert that the offenses of its striking employees are necessarily and of themselves a bar to their

88. See *Matter of Kentucky Firebrick Company*, Case No. C-179, 3 N. L. R. B. No. 46.

reinstatement,[89] or that they are any less fit to be employees than the respondent is to be the employer.

For much the same reasons we cannot conclude that the reinstatement of strikers in this situation will provide any material incentive to violence in future industrial conflict. Where passions are aroused by bitter industrial warfare the deterrent effects of a possible failure to achieve reinstatement by Board order at some future date after the conclusion of the strike will scarcely be a factor of significance in the amount of violence likely to occur. Furthermore, the primary control of such misconduct is and must be found in the police power of State and local authorities. In this case strikers guilty of misconduct have been prosecuted by the local authorities and have paid the penalty for such misconduct. The Act was not intended to regulate conduct subject to local police regulation but primarily to protect the right of self-organization and collective bargaining. In so far as the discouragement of crime may be accomplished in this case without sacrificing the effectuation of the policy of the Act, we exercise our discretion in excluding from our order of reinstatement those employees whose crimes are sufficiently grave to disqualify them from re-employment. We think it evident, however, that the respondent's unfair labor practices should not be imperfectly remedied and that the important national policy of the Act, which is fulfilled by the reinstatement of strikers, should not be imperfectly effectuated, merely because the respondent's striking employees have violated other laws, where such violations have already been punished by the appropriate law enforcement agencies and are not of such a character as to disqualify the strikers from reemployment.

Under all these circumstances, without condoning the

89. See *Matter of United States Stamping Company*, Case No. C-203, 5 N. L. R. B. No. 29.

illegal acts of these men, and in order to effectuate the purposes of the Act, we hold that such acts do not constitute a bar to the reinstatement of any of the strikers, except those who pleaded guilty to the possession and use of explosives and the malicious destruction of property to the value of $300 and those who were convicted of possession of a bomb. The 11 to be excluded are Charles Byers, Sidney Watkins, A. C. Scott, John Borawiec, Andrew J. Marsh, Mike Spelich, Herman Herzog, Jesse Rentoria (Runtario), Pete Vasleo, and Omer Williams.

The respondent also contends that the strike as a whole was unlawful from the time pickets carried clubs and engaged in acts of violence, that all the strikers were acting in concert to carry out an illegal purpose and were responsible for the illegal acts of any of the other strikers, and that therefore none of the strikers should be reinstated and the complaint should be dismissed. This contention must be considered in the light of Section 6 of the Act of March 23, 1932, known as the Norris-LaGuardia Act:

> "No officer or member of any association or organization, and no association or organization participating or interested in a labor dispute shall be held responsible or liable in any court of the United States for the unlawful acts of individual officers, members or agents except upon clear proof of actual participation in or actual authorization of such acts or of ratification of such acts after actual knowledge thereof." (Sec. 6, Act of March 23, 1932, 47 U. S. Stat. 70, C. 90)

With the possible exception of the 67 employees who pleaded guilty to, and the five who were found guilty of, rioting or assembling together to do an unlawful act, the respondent has neither proved nor offered "clear proof of

actual participation in or actual authorization—(or) ratification" by strikers of the individual unlawful acts committed by other strikers. Further, the considerations recited above in connection with the acts of individual strikers apply even more clearly here. As an administrative matter the Board is not equipped to determine whether thousands of strikers participated in or authorized or ratified unlawful acts by other strikers. Therefore, although we will accept evidence of convictions of illegal concerted action obtained by the local enforcement authorities, we will not try such issues before the Board.

Finally, even if there were proof of conviction of such illegal concerted action as the respondent asserts, we would not, for reasons previously stated and in view of the respondent's own role in the strike and the events prior thereto, consider such conviction ground for a blanket refusal to reinstate all strikers.

We shall, therefore, order the respondent to offer the employees who were laid off, discharged, or refused reinstatement for their union activity immediate and full reinstatement to their former or substantially equivalent positions, without prejudice to their seniority or other rights or privileges, and to pay such employees back pay for losses suffered by reason of the respondent's unlawful acts. We shall also order the respondent, upon application, to offer similar reinstatement to its employees who were on the pay roll at its plants in the Canton, Massillon, Youngstown, Warren, Niles, and Cleveland districts on May 25, 1937, and who went out on strike on May 25 and thereafter, and have not since been fully reinstated.

Such reinstatement shall be effected in the following manner: Each employee ordered reinstated shall be entitled to reinstatement to his former or a substantially equivalent position in the plant where he was employed at the time of

his lay-off or discharge, or at the time of the strike. In the case of those employees who were laid off or discharged, all employees hired after such lay-off or discharge shall, if necessary to provide positions for those to be reinstated, be dismissed; and in the case of strikers to be reinstated, all employees hired after the commencement of the strike shall, if necessary to provide positions for those to be reinstated, be dismissed. If, thereafter, by reason of a reduction in force there are not sufficient positions available in any plant for the remaining employees, including those to be reinstated, all available positions shall be distributed among such remaining employees in accordance with the respondent's usual method of reducing its force, without discrimination against any employee because of his union affiliation or activities and following a system of seniority to such extent as has heretofore been applied in the conduct of the respondent's business. Those employees remaining after such reduction, for whom there are then no available positions, shall be placed upon a preferential list prepared in accordance with principles set forth in the previous sentence, and shall thereafter, in accordance with such list, be offered employment in their former or substantially equivalent positions at any of the respondent's plants,[90] in Ohio, Monroe, Michigan, and Pittsburgh and Beaver Falls, Pennsylvania, regardless of their previous place of employment, as such employment becomes available and before other persons are hired for such work, provided, however, that an employee shall remain on the preferential list until he accepts an offer of employment at any of the foregoing plants of the respondent in his former or substantially equivalent position, or declines an offer of employment in the plant where he was employed.

In our Proposed Findings of Fact and Proposed Order

90. To be included among such plants are any plants which the respondent has acquired since the date of the hearing from its subsidiaries or otherwise.

we required that the employees on said preferential list should be offered employment in the same manner in their former or substantially equivalent positions at *any* of the respondent's plants. The respondent in its exceptions, and brief in support of its exceptions, contends, *inter alia,* that such a requirement would inconvenience the respondent out of all proportion to any benefit conferred upon the beneficiaries of the Proposed Order. We find that this exception, for the specific reason cited, is well taken with regard to those plants not located in Ohio, Monroe, Michigan, or Beaver Falls or Pittsburgh, Pennsylvania, and accordingly, we have so modified our findings and Order.

The question is raised by the Union's exceptions whether the respondent should be permitted to deduct from the back pay due under our Order money received by an employee for work performed upon Federal, State, county, municipal or other work relief projects during the period for which the respondent is under obligation to pay such employee back wages. In so far as the employee receives remuneration for such work during periods when he would otherwise have been working for the respondent, it would not seem necessary, in restoring him to the status quo, that he be reimbursed in such amounts. Nevertheless, to hold that the losses accruing from the respondent's unfair labor practices must be borne by the government or governments financing the work relief project would not effectuate the purposes of the Act. We shall therefore order the respondent to deduct such sums from the amounts otherwise due the employees and to pay such deductions over to the appropriate fiscal agency of the Federal, State, county, municipal or other government or governments which supplied the funds for the work relief project.

In its exceptions, and brief in support of its exceptions, the respondent contends that that portion of the

Board's Proposed Order (Sections 2f and 2g) by which the respondent is ordered to reinstate strikers upon application is a denial of due process of law to the respondent because it has never been put on notice or afforded a hearing as to the rights of such strikers. Specifically, the respondent contends that the complaint alleges the discharge of certain named individuals and the lock-outs at Canton and Massillon as unfair labor practices within the meaning of specific sections of the Act; that paragraph 16 of the complaint, dealing with the causes of the strike, does not allege that in causing the strike the respondent committed a specific unfair labor practice; that whereas the complaint specifically names certain employees whose rights are involved, no specific reference is made to any of the employees who went out on strike, so that there is nothing to call to the attention of the respondent the fact that the Board intended to deal with the rights of the strikers generally; and that the clear implication of the complaint must be that, in so far as the rights of individual employees were concerned, its purpose was to tender an issue as to those and those only who were named specifically in the complaint. The respondent asserts, therefore, that it was denied the opportunity to make its defense as to all strikers who were not named in the complaint. Counsel for the respondent also asserts that at the hearing before the Trial Examiner he expressly stated that the complaint was not broad enough to tender any issue as to the rights of any strikers other than those specifically named in the complaint; that this statement was not dissented from by the Trial Examiner nor disputed by counsel for the Board; that counsel for the Board and the Trial Examiner misled counsel for the respondent and, impliedly at least advised the respondent that the hearing was limited to a determination of the rights of the persons specifically named in the complaint, in that when the respondent offered evidence to show that the strikers generally had been

guilty of acts of violence and lawless conduct, the Trial Examiner sustained the objection of counsel for the Board to the admission of this evidence on the ground, *inter alia*, that evidence of acts of violence must be limited to the individuals specifically named in the complaint.

A review of the entire record discloses that there was no misunderstanding, either as the result of the complaint or the conduct at the hearing of counsel for the Board and of the Trial Examiner, as to the right of the Board to order the reinstatement with back wages of strikers not specifically named in the complaint:

The Board in its decisions prior to the issuance of the complaint in this case had consistently taken the position that where a strike has been caused by unfair labor practices of an employer the Board will as a matter of remedy order the employer to reinstate the strikers upon application.[91] This remedy had been sustained by the courts.[92] Paragraph 16 of the complaint in the instant case—alleging that certain unfair labor practices of the respondent had been a cause of the strike—laid the factual foundation for the reinstatement of the strikers and sufficiently put the respondent on notice that the customary remedy would, if the Board found the facts as alleged, be ordered by the Board. Furthermore, conclusive of this matter is the fact that at the oral argument before the Board, counsel for the respondent while reiterating the position taken in his brief and exceptions, admitted that he had realized at the time of the trial of this proceeding that the issue of re-

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91. Matter of *The Jeffrey-DeWitt Insulator Company*, Case No. C-21, 1 N. L. R. B. 618.
Matter of *Remington Rand, Inc.*, Case No. C-145, 2 N. L. R. B. 626.
Matter of *Alaska Juneau Gold Mining Company*, Case No. C-91, 2 N. L. R. B. 125.
Matter of *Carlisle Lumber Company*, Case No. C-93, 2 N. L. R. B. 248.

92. Matter of *The Jeffrey-DeWitt Insulator Company* v. *National Labor Relations Board*, 91 F. (2) 34; cert. denied 302 U. S. 731.

instatement of strikers was involved in the case.[93]

Furthermore, after examination of the record, we are convinced that neither the Trial Examiner nor the attorney for the Board acquiesced in the respondent's assertion that the complaint was not broad enough to tender any issue as to the reinstatement of strikers not named in the complaint; and that neither the Trial Examiner nor the attorney for the Board misled counsel for the respondent by any ruling or otherwise with respect to this issue.

Finally, even if the respondent misunderstood any statement or ruling of the Trial Examiner or any statement of counsel and as the result of its misunderstanding was misled as to the nature of the evidence which it might have introduced at the hearing in defense to the reinstatement of strikers, the respondent has not been prejudiced in any way; for it has set forth in its motion to reopen and its offers to prove all such evidence as it wished to produce at the hearing, and, for reasons discussed elsewhere, we hold that all such evidence (other than that relating to pleas of guilty and convictions of strikers, of which we take judicial notice) is inadmissible now and should have been excluded, if offered at the hearing before the Trial Examiner.

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93. CHAIRMAN J. WARREN MADDEN: The complaint does state specifically that certain of your unfair labor practices caused the strike, does it not?

MR. DAY: Yes, sir.

CHAIRMAN J. WARREN MADDEN: And, of course, we have decided numerous times and I take it you have probably familiarized yourself somewhat with the unwritten law which was administered before you tried this case, that we had, with the approval of the courts, numerous times, as part of the remedy in our order, reinstated strikers.

MR. DAY: I realize that.

CHAIRMAN J. WARREN MADDEN: On this same kind of situation of the pleading.

MR. DAY: Well, I do not believe that it is justified on the pleading.

CHAIRMAN J. WARREN MADDEN: It hadn't troubled us and it hadn't troubled the judges, and you were certainly on notice of what our procedure was in that regard.

MR. DAY: Well, I think if you will examine the complaint you will find there is no such issue tendered by it.

In its motion to reopen the proceeding for the taking of further evidence the respondent raises several issues not previously discussed. Reasserting that the issue of reinstating striking employees not named in the complaint was not raised by the complaint but was injected into the case for the first time by the Board's Order of April 8, 1938, the respondent contends that it should be permitted to introduce evidence in order to enable it to place before the Board facts, not in the record, some of which occurred after the hearing had been concluded, disclosing the situation as it exists with relation to the performance of the Board's Proposed Order, so that the Board may determine in the light of the facts as they now exist, whether its Proposed Findings of Fact, Proposed Conclusions of Law and Proposed Order should be made final. Under this heading, the respondent asserts and offers to prove (1) that prior to and soon after the reopening of such of the respondent's plants as became involved in the strike, those of the respondent's employees who had gone out on strike and had not yet returned to their work were informed at the respondent's instance of the fact that said plants would be or had been reopened and that all the persons on the respondent's pay rolls at the time of the strike, excepting those who had been guilty of acts of violence, or of provoking, condoning, or instigating acts of violence, or of indulging in other unlawful acts during the strike, would be reinstated to their former jobs with the respondent upon their making application therefor or as soon as production had increased sufficiently to justify adding more persons to the pay rolls, wholly without any discrimination on account of union membership or lawful union activity;[94] and that normal operations in the respondent's several plants

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94. The respondent, at the hearing and at the oral argument before the Board, contended that all of the strikers were chargeable with the unlawful conduct of those strikers guilty of unlawful acts and that all of the strikers were therefore barred from reinstatement.

mentioned in the complaint and involved in the strike were resumed on or before July 30, 1937, except at its plants in Warren and Niles, where such operations were resumed on or about August 30, 1937; (2) that strikers caused damage in excess of $3500 to the property of the respondent, and damage in excess of $7500 to the property of certain of the respondent's employees not engaged in the strike; and (3) that portions of the Proposed Order are wholly impossible of performance, due to the radical changes in methods of manufacture employed by the respondent since the advent of the strike, which have resulted in the dismantling of several of the respondent's mills, have reduced the number of men necessary in several of the respondent's plants, have caused the elimination of a large number of positions for employees in each one of the plants, and have required the employment of an entirely different type of skilled labor from that which operated the old sheet mills used by the respondent at the time the strike was started; and that other portions of the Proposed Order are so impracticable or so difficult as to performance that an enforcement thereof would disrupt and render impossible normal operations of business.

None of these contentions constitute grounds for reopening the record. With regard to the respondent's first assertion—that during the strike the respondent resumed its normal operations and called back to work its striking employees—the respondent contends in its brief that the evidence it seeks to introduce on this point is material as showing that thereafter the strikers were no longer employees, for the reason that the discharges and lock-outs, found to be a cause of the strike, had thereby been "removed from the picture" and that the strikers were continuing the strike solely because of the respondent's refusal to sign the agreement presented by the S. W. O. C., which we do not find to have been an unfair labor practice.

The respondent's assertion and its offer to prove, however, do not include a showing that the respondent ceased from engaging in the unfair labor practices which caused the strike, that it made whole the employees laid off, discharged, and locked out at Canton and Massillon, and the employees laid off, discharged and refused reinstatement at its other plants, or that it has disestablished the labor organizations whose formation and administration it dominated and interfered with. Hence, the respondent's resumption of operations and offer of employment to strikers, in the manner alleged, did not remedy the unfair labor practices which caused the strike or "remove them from the picture." Accordingly, the strike continued because of unfair labor practices and the strikers continued to be employees within the meaning of Section 2 (3) of the Act. Thus, even if such evidence were admitted, it would not relieve the respondent of its obligation to reinstate strikers upon application when they apply for reinstatement, in accordance with the Order herein. As a further ground for denying this part of the respondent's motion, it appears from the face of the motion that all of the foregoing evidence which the respondent offers to prove was available at the time of the hearing, and was not offered. The proffered evidence is therefore both immaterial and untimely.

Immaterial also is the respondent's claim that "pickets, strikers, and persons affiliated with the S. W. O. C. and the C. I. O." caused damage to the property of the respondent and to the property of certain non-striking employees. The purpose of this offer, as appears from the respondent's brief, is to establish a basis for set-offs or recoupments against the back wages ordered by the Board for the purpose of making the strikers whole. However proper such set-offs or recoupments might be in a controversy between private litigants over private rights, there is no basis for such a claim in a controversy, such as this,

of a public character, where conformance is sought with the public policy of the United States, as expressed in a statute, and where those to whom the Board has awarded back pay are not private litigants in the cause.

Finally, with respect to the respondent's third contention, we see nothing in the respondent's assertions or in its offer to prove, with the exception noted below[95] which indicates any impossibility or impracticability of performance of the Board's order. The order states generally the principles to be followed by the respondent in making reinstatement, and none of the matters set forth in the respondent's motion raise issues which are not covered by these general principles. Thus the respondent asserts that changes in methods of manufacture subsequent to the hearing have eliminated a number of previous jobs; this contingency, however, is expressly provided for in the order through the device of the preferential list. Again, while it is true that compliance with the Board's order will require certain readjustments in the respondent's business, such difficulties as the respondent may experience, as, for instance, in displacing employees hired since the strike or in reinstating men who may have lost some of their skill through unemployment, are merely the normal concomitant and the necessary result of the respondent's violation of the law.[96] Our experience with similar orders of reinstate-

95. As set forth above we recognize the difficulties pointed out by the respondent in regard to reinstating employees to positions in plants which are removed some distance from the employee's place of residence, and have accordingly modified our order in this respect.

96. See *National Labor Relations Board* v. *Remington Rand, Inc.*, (97 F. (2) 195).

"Apparently it (the respondent) believes that the substitutions (of strikers to be reinstated for employees hired since the strike) were not peremptorily required, in the sense that they must be carried out, regardless of their effect upon the company's business. That is a mistake; the order required the substitutions unconditionally, regardless as much of their effect on the Company's business, as of the hardship entailed upon those who must be displaced. The old hands are to be offered their former jobs as soon as they can be identified, and so far as their jobs remain; that is to say, so far as anyone else is performing the same, or substantially the same, services as they were performing or any other services which they can perform. If this involves

ment has been that performance is neither impossible nor impracticable but can be readily carried out if the employer makes a *bona fide* attempt to comply. The evidence which the respondent seeks to introduce is, therefore, immaterial to the issues of the case.

Further, with respect to that evidence which was available at the time of the hearing we think it plain there is no justification for reopening the record at this time. Despite the respondent's contention to the contrary, the issue of the reinstatement of the strikers was present throughout the hearing and any evidence relating to that issue should have been introduced at that time. With respect to evidence not available at the hearing—mainly relating to subsequent changes in the respondent's methods of operation—we cannot, as a matter of administration of the Act reopen the record to receive testimony upon the constantly changing details of compliance with or performance of the Board's order. To do so would require a reopening of the record whenever the employer changed his method of operation and would delay interminably the final adjudication of the issues.

ORDER

Upon the basis of the above findings of fact and conclusions of law, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the respondent, Republic Steel Corporation, its officers, agents, successors, and assigns shall:

1. Cease and desist from:

(a) Dominating or interfering with the formation or

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disturbance to the Company's business, it is no doubt unfortunate; but, having chosen to challenge the law, it must abide the loss."

administration of any labor organization of its employees or contributing financial or other support thereto;

(b) Discouraging membership in the Amalgamated Association of Iron, Steel and Tin Workers of North America or the Steel Workers Organizing Committee or any other labor organization of its employees, by discharging and refusing to reinstate employees, or otherwise discriminating in regard to hire or tenure of employment or any term or condition of employment or by threats of such discrimination.

(c) In any other manner interfering with, restraining, or coercing its employees in the exercise of their rights to self-organiaztion, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid and protection as guaranteed in Section 7 of the Act.

2. Take the following affirmative action which the Board finds will effectuate the policies of the Act:

(a) Withdraw all recognition from the Plan of Employee Representation, and its successors—the Employees' Representative Association and the Independent Association of Republic Employees at Massillon; the Plan of Employee Representation, and its successors—the Employees' Representative Association, and the Steel Workers Union of America—and the Plan of Representation of Employees at Canton; The Plan of Employee Representation, and its successors—the Employee Representation Plan, and the Independent Federation of Republic Employees at Youngstown; the Plan of Employee Representation, and its successor—the Employees' Independent Association at Warren; the Plan of Employee Representation, and its successor—the Employees' Representative Association at Cleveland; the Central Council of Employee Representatives; and

each of them, as the representatives of any of its employees at its plants in the Massillon, Canton, Youngstown, Warren, Niles, and Cleveland districts, respectively, for the purpose of dealing with the respondent concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work; and completely disestablish the foregoing labor organizations as such representatives;

(b) Offer to Peter Mouyios, Victor Arias, Mike Ugranovich, Will S. Wright, Sabri Shaban, and George Troyanovich (group A); John Lazar, Michael Krill, Balare Chismus, William A. Haren, Charles Neverdusky, Anthony Martin de Long, Richard Green, and Hallie P. Hite (group B), in the manner provided in the section entitled "The remedy" above, immediate and full reinstatement to their former or substantially equivalent positions without prejudice to their seniority and other rights and privileges; and make them whole for any losses of pay they have suffered by reason of the respondent's discriminatory acts, by payment of each of them, respectively, of a sum of money equal to that which each of them would normally have earned as wages during the period, in the case of group A, from the date of their lay-off or discharge until the date when the strike began, and again from the date on which operations in their departments began after the reopening of the plants involved to the date of the offer of reinstatement as provided herein, and in the case of group B, from the date of the refusal to reinstate until the date of the offer of reinstatement as provided herein; less the amounts, if any, which each earned during said period, deducting, however, from the amount otherwise due to each of the said employees, monies received by said employees during said periods for work performed upon Federal, State, county, municipal or other work relief projects; and pay over the amounts, so deducted, to the appropriate fiscal agency of

the Federal, State, county, municipal, or other government or governments which supplied the funds for said work relief projects;

(c) Make whole Thomas Cikah, John Popik, Frank Pirichy, Michael Naletrich, Wilbert Neuman (Group C); Thomas White, Charles Bernard Fagan, John Exall, John Petak, Mathew Babich, Gaetano Armeli, and Fred Korecky (Group D) for any losses of pay they have suffered by reason of the respondent's discriminatory acts, by payment to each of them, respectively, of a sum of money equal to that which each of them would normally have earned as wages during the period, in the case of group C, from the date of their discharge to the date of their offer of reinstatement prior to the strike, and in the case of group D, from the date of their lay-off or discharge until the date of the strike; less the amounts, if any, which each earned during said period, deducting, however, from the amount otherwise due to each of the said employees, monies received by said employees during said periods for work performed upon Federal, State, county, municipal or other work relief projects; and pay over the amounts, so deducted, to the appropriate fiscal agency of the Federal, State, county, municipal, or other government or governments which supplied the funds for said work relief projects;

(d) Make whole the employees of the Canton tin plate mill who were employed on May 4, 1937, for any loss of pay they have suffered by reason of the closing of the Canton tin plate mill on May 5, 1937, by payment to each of them, respectively, of a sum equal to that which each of them would normally have earned as wages during the period from May 5 to May 24, 1937, less the amount, if any, which each has earned during said period;

(e) Make whole the employees of the Massillon Works, who were employed on May 19, 1937, for any loss of

pay they have suffered by reason of the closing of the Massillon Works on May 20, 1937, by payment to each of them, respectively, of a sum which each of them would normally have earned as wages during the period from May 20 to May 23, 1937, less the amount, if any, which each has earned during said period;

(f) Upon application, offer to those employees at its plants in the Canton, Massillon, Youngstown, Warren, Niles, and Cleveland districts, (including those referred to as groups C and D in paragraph 2 (c) above), who went on strike on May 25, 1937, and thereafter, (except Charles Byers, Sidney Watkins, A. C. Scott, John Borawiec, George A. Bundas, Andrew J. Marsh, Mike Spelich, Herman Herzog, Jesse Rentario (Runtario), Pete Vasleo, and Omer Williams), immediate and full reinstatement to their former or substantially equivalent positions without prejudice to their seniority or other rights or privileges, in the manner provided in the section entitled "The remedy" above; and place those employees for whom employment is not immediately available upon a preferential list in the manner set forth in said section, and thereafter, in said manner, offer them employment as it becomes available;

(g) Make whole all the employees referred to in paragraph 2 (f) above for any losses they may suffer by reason of any refusal of reinstatement or placement upon the preferential list required by paragraph 2 (f) above by payment to each of them of a sum of money equal to that which each of them would normally have earned as wages during the period from five (5) days after the date of application to the date of offer of reinstatement or placement upon the preferential list, less the amount, if any, which each, respectively, earned during said period, deducting, however, from the amounts otherwise due to each of the said employees, monies received by said employees during said period for work performed upon Federal, State, county,

municipal or other work relief projects; and pay over the amounts, so deducted, to the appropriate fiscal agency of the Federal, State, county, or municipal or other government or governments which supplied the funds for said work relief projects;

(h) Post immediately in conspicuous places in its plants in the Canton, Massillon, Youngstown, Warren, Niles, and Cleveland districts, and maintain for a period of at least sixty (60) consecutive days, notices to its employees stating that the respondent will cease and desist in the manner aforesaid and that recognition is withdrawn from the labor organizations named in paragraph 2 (a) above as representatives of any of the employees for the purpose of dealing with the respondent concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work, and that the foregoing labor organizations are completely disestablished as such representatives;

(i) Notify the National Labor Relations Board in writing what steps the respondent has taken to comply with the Order herein.

And it is further ordered that the allegations of the complaint with respect to the discharge and refusal to reinstate Harry Rigby be, and they hereby are, dismissed.

Dated at Washington, D. C., this 18th day of October, 1938.

J. Warren Madden
Chairman
Edwin S. Smith
Member
Donald Wakefield Smith
Member
National Labor Relations Board

(Seal)

AFFIDAVIT AS TO SERVICE

District of Columbia, ss:

I, George Lo Verde being first duly sworn, on oath saith that I am one of the employees of the National Labor Relations Board, in the office of said Board in Washington, D. C.; that on the 18th day of October, 1938, I mailed postpaid, bearing Government frank, by registered mail, a copy of the Decision and Order to the following named persons, addressed to them at the following addresses:

Mr. Lee Pressman
1106 Connecticut
Washington, D. C.
69361

Mr. H. C. Pontius
Lynch, Day, Pontius and Lynch
Canton, Ohio
69362

Mr. J. G. Ketterer
First National Bank Bldg.
Canton, Ohio
69363

Harrington, Huxley and Smith
1200 Mahoning Bank Bldg.
Youngstown, Ohio
69364

Steel Workers Organizing Committee
3600 Grant Bldg.
Pittsburgh, Pa.
69365

George Lo Verde

Subscribed and sworn to before me this 18th day of October, 1938

John A. Nevres
Notary Public,
D. C. (Seal)

My Commission Expires Aug. 15, 1943.

(Return Receipt Cards of those named above attached)

AFFIDAVIT OF SERVICE

State of Ohio,
County of Cuyahoga, ss:

Max W. Johnstone, Attorney, first being duly sworn, deposes and says that on the 19th day of October, 1938, as agent for the National Labor Relations Board, he personally served upon Earl W. LeFever, of Day, Young, Veach and LeFever, of counsel for Republic Steel Corporation, at their offices in the Union Bank of Commerce Building, City of Cleveland, County of Cuyahoga, State of Ohio, at approximately 10:15 A. M., on the above mentioned date, a copy of the Decision and Order of the National Labor Relations Board in the above entitled matter.

Max W. Johnstone

Subscribed and sworn to before me this 19th day of October, 1938.
Elizabeth A. Wells
Notary Public,
My commission expires Feb. 21, 1941.
(Seal)

AFFIDAVIT OF SERVICE

State of Ohio,
County of Cuyahoga, ss:

Max W. Johnstone, Attorney, first being duly sworn, deposes and says that on the 19th day of October, 1938, as agent for the National Labor Relations Board, he personally served upon P. F. Boyer, Comptroller of the Republic Steel Corporation, at the offices of the Republic Steel Cor-

poration, in the Republic Building, City of Cleveland, County of Cuyahoga, State of Ohio, at approximately 10:05 A. M., on the above mentioned date, a copy of the Decision and Order of the National Labor Relations Board in the above entitled matter.

Max W. Johnstone

Subscribed and sworn to before me this 19th day of October, 1938.

Elizabeth A. Wells
Notary Public,

My commission expires Feb. 21, 1941.
(Seal)

AFFIDAVIT OF SERVICE

State of Ohio,
County of Cuyahoga, ss:

Max W. Johnstone, Attorney, first being duly sworn, deposes and says that on the 19th day of October, 1938, as agent for the National Labor Relations Board, he personally served upon A. J. Gentholtz, Assistant General Counsel of Republic Steel Corporation, at the offices of the Legal Department of Republic Steel Corporation, in the Republic Building, City of Cleveland, County of Cuyahoga, State of Ohio, at approximately 10:00 A. M., on the above mentioned date, a copy of the Decision and Order of the National Labor Relations Board in the above entitled matter.

Max W. Johnstone

Subscribed and sworn to before me this 19th day of October, 1938.

Elizabeth A. Wells
Notary Public,

My commission expires Feb. 21, 1941.
(Seal)

XXXIII.

TRANSCRIPT OF TESTIMONY

BEFORE THE NATIONAL LABOR RELATIONS BOARD
Washington, D. C.

In the Matter of:
REPUBLIC STEEL CORPORATION
and
STEEL WORKERS ORGANIZING COMMITTEE
Case No. 184.

Auditorium of the Public Health Service Building, Constitution Avenue between Nineteenth and Twentieth Streets, Washington, D. C., Wednesday, July 21, 1937.

The above-entitled matter came on for hearing, pursuant to notice, at 10 o'clock a. m.

Before:
Mr. Edwin S. Smith, Member of the Board
Mr. Donald Wakefield Smith, Member of the Board.

Appearances:

Charles Fahy, Esq., General Counsel, Robert B. Watts, Esq., Associate General Counsel, Mark Lauter, Esq., Lawrence Hunt, Esq., Oscar Grossman, Esq., and Joseph M. Hoskins, Esq., Counsel appearing for the National Labor Relations Board.

Luther Day, Esq., and Thomas F. Veach, Esq., of the firm of Messrs. Day, Young & Veach (1420 Union Trust Building, Cleveland, Ohio), and Thomas F. Patton, Esq., (Republic Building, Cleveland, Ohio), appearing for the Respondent, the Republic Steel Corporation.

Lee Pressman, Esq. (50 Broadway, New York City), appearing for the Steel Workers Organizing Committee.

PROCEEDINGS

MR. EDWIN S. SMITH: Are you ready to proceed, gentlemen?

MR. LAUTER: If the Board please, I assume the appearances for the Board have already been entered.

MR. WATTS: Yes.

MR. LAUTER: I do not know whether the appearances for the Respondent Company have been entered, or not.

MR. PATTON: They have been noted.

For the benefit of the Board who possibly do not know the Attorneys for the Republic Steel Company: This gentleman to my right is Mr. Luther Day, of Cleveland; Mr. Thomas F. Veach, of Cleveland, is at the end of the table, and my name is T. F. Patton, of Cleveland. We will appear for the Republic Steel Corporation.

MR. LAUTER: If the Board please, I offer as Board's Exhibit No. 1, a copy of the charge and order permitting the filing of the charge with the Board; the supplemental charges; the complaint; two affidavits of service of the complaint; and the order extending the time to answer.

MR. PATTON: If the Board please, I am not entirely clear as to the rules of procedure, but before we begin the introduction of evidence there are one or two motions and statements that Republic Steel Corporation would like to make, if you will hear them.

MR. EDWIN S. SMITH: Let me suggest these formal pleadings be admitted first. That is customary. Then you may proceed with your motions, or whatever you have.

Board's Exhibit No. 1 is admitted.

(Thereupon, the documents referred to were received in evidence and marked "Board's Exhibit No. 1.")

MR. EDWIN S. SMITH: I understand there is a rule

that smoking is not permitted in this hearing room. We are here by courtesy of the Public Health Service, so I think we would better obey that rule.

MR. PATTON: On behalf of the Republic Steel Corporation, if the Board please, at this time we would like to make a motion for a continuance of at least two weeks before these hearings begin, and to have them begin in Cleveland. Our grounds for this motion are the following:

The complaint was served on us just four and a half days ago, last Friday morning, in Cleveland. At the time the complaint was served Mr. Day and myself were engaged in a lawsuit in the Common Pleas Court of Cuyahoga County, and it was only about two thirty in the afternoon that the Court, upon calling Mr. Fahy, consented to postpone the trial of that case until next Tuesday. As a result, we have had no chance, or very little chance, to familiarize ourselves with the issues in this proceeding, and with the facts which are the basis of the complaint.

We want to call your attention to the fact that the charges contained in the complaint relate solely to happenings which occurred in the State of Ohio, in six different communities, involving thirteen different plants, and there are specifically named in the complaint at least seventy-six different individual cases. We do not believe we are being fairly dealt with, and we do not believe that it is just to ask us to come to Washington when all of the complaints and all of the events and all of the witnesses and all of the people involved are all located within 100 miles of Cleveland, which would be a convenient place for the conduct of this hearing.

Therefore, we ask that you give us an opportunity to prepare ourselves in the defense of this case, and that the hearings be adjourned, to be resumed in Cleveland not earlier than two weeks from this date.

MR. FAHY: If the Board please, these same repre-

sentations were made to me, in substance, on last Saturday by Mr. Patton. I explained to him at that time that it is ordinarily true, as the Board well knows, and all those who appear before the Board well know, that hearings are ordinarily conducted in the location where the controversy arises, but that there are occasional exceptions and hearings are conducted in part, if not in full, in Washington.

I also explained at the time these same negotiations were made to me, that the Republic Steel Corporation would be given the fullest opportunity to prepare and present its defense, that there were circumstances, however, under which, after mature consideration, the Board felt compelled to initiate this hearing in Washington at this time pursuant to the valid notice given.

I went so far as to talk with the Judge presiding over the trial of the case mentioned by Mr. Patton, and with Counsel for the plaintiff in that case, and upon my statement that the Board felt under the necessity of proceeding now in part, I understand that that case has been continued until next Tuesday. I agreed with counsel, Mr. Patton, and that agreement has since been incorporated in an order of the Board, for an extension of time within which the Republic Steel Corporation may file its answers, or other pleadings or motions which it may desire. And I assured him that notwithstanding the fact that the hearing would begin here and now, that I felt that the Board would, at the proper time, recess the hearing if Counsel felt that they had not had at that time an opportunity to prepare the case for the Republic Steel Corporation.

In view of all these circumstances, I ask the Board to overrule the present motion.

MR. PATTON: May I call to the Board's attention the fact that one of the chief things which will be required of Counsel for Republic Steel Corporation at this time

is an opportunity to cross-examine the witnesses presented on behalf of the Board. That is a fundamental part of the defense of our case. And we do not believe we have been given an opportunity to familiarize ourselves with the facts stated in the complaint to an extent that would enable us to do real justice to our clients in the cross-examination of the witnesses who will be produced here by the Board.

For that reason, I reiterate our request for a continuance.

MR. FAHY: I will add just one more word, that in controversies of this kind arising under the National Labor Relations Act, the Board is well aware of the necessity of speedy hearing and disposition of the cases because of the nature of the controversy. That being true, and Counsel being assured that in the wisdom of the Board, as the case proceeds, it will be given opportunity to prepare its defense, I again ask that the Board overrule the motion at this time.

MR. VEACH: I think we are entitled to have stated for the record these circumstances which were mentioned by Counsel as a compelling factor for proceeding.

MR. DONALD WAKEFIELD SMITH: What would be the purpose of that?

MR. VEACH: I think to enable this Board to pass upon the motion.

MR. DONALD WAKEFIELD SMITH: The statement has merely been made that it is necessary to proceed at this time.

MR. EDWIN S. SMITH: The Board is aware that this is a long complaint covering a variety of matters. We agree with the suggestion made by the General Counsel for the Board that at a proper time it would be appropriate, in all probability, to grant an adjournment of these hearings in order that the Republic Steel Corpora-

tion have additional time within which to prepare its case.

There were certain reasons which seemed to Counsel for the Board, and to the Board, imperative why certain witnesses should appear at this time, which was the earliest time possible within the statutory limits, and why their testimony should be put on the record now and in Washington.

As to the suggestion that the hearings might more conveniently be held outside of Washington, we, like the company, are aware of the difficulties of transporting large numbers of witnesses to Washington. I think it is quite probable that a portion—perhaps a very large portion of the hearings—may be conducted outside of Washington, and possibly in Cleveland, as suggested by Counsel.

Under all of the circumstances, and because we felt very definitely that an urgent public interest did demand that these witnesses who are presently available should be put on at this time, we decided to proceed with the hearing.

And Mr. Fahy has explained, as you have, that the case in which you are interested there in Cleveland has been adjourned until next Tuesday morning, and the Board is going to make every effort to conclude with the testimony of its present witnesses before that time.

I hope it will not be necessary to have evening sessions, but in deference to the obligation which you are under there, if it develops that that is necessary in order for us to conclude our program with the present list of witnesses whom we have here under subpoena, we will do that.

Under all of these circumstan es, the motion is overruled and we will proceed with the case.

MR. PATTON: May the record show that Republic

objects to the overruling of its motion for a continuance and a transfer of the case.

Before we start there are one or two other things I would like to have cleared up. I understand that we are appearing here on your ruling without prejudice in any way by reason of our appearance, or the introduction of testimony, if the Board please, to our filing any motion that we desire prior to a date— And I do not know just what the exact date is.

MR. FAHY: August 4.

MR. PATTON: And that we have until August 4 to file an answer to the complaint?

MR. EDWIN S. SMITH: That is correct.

MR. PATTON: And that any proceedings that go on here are entirely without prejudice to any motion as to jurisdiction or anything else that we may desire to file?

MR. EDWIN S. SMITH: That is correct.

MR. DAY: If the Board please, I do not know the rules of the Board nor the procedure of the Board. This is the first time I have been here. I don't know whether it would be in order now for Republic to make a statement— that is, a general statement as to its provisions with relation to these charges. If that would meet with the approval of the Board we would like to make it.

MR. EDWIN S. SMITH: I see no objection to that. Mr. Fahy?

MR. FAHY: If the Board please, I understand Republic Steel Corporation is anxious that this phase of the hearing be held in Washington and proceed as rapidly as possible so that Counsel here may return to the Common Pleas Court in Cleveland in the case in which they were engaged there.

In view of the circumstances that we have just discussed, if this phase of the hearing is to be concluded

within the next few days, I do feel we ought to go to the taking of testimony as rapidly as possible.

Counsel have reserved the right, with the approval of the Board, to file their pleadings and raise all questions of which they are advised they should raise. We cannot very well argue the case at this stage. Counsel for the Board does not desire to enter into a general statement. The purpose of the hearing is to take testimony.

MR. EDWIN S. SMITH: The Board is well aware of the necessity for speed in these proceedings under the circumstances which have been stated. I take it what you are now suggesting is a statement which would be in the nature of a preliminary oral answer, perhaps, in lieu of the formal answer which you have been given time to file?

MR. DAY: It would be a general statement of the position of Republic Steel with relation to the charges that have been made. And the complaint discloses that it has been filed on charges filed by the Steel Workers Organizing Committee. And, if it meets with the approval of the Board, and if it is in order, we would like to make a general statement as to our position in this whole transaction with relation to these charges.

MR. EDWIN S. SMITH: Mr. Fahy, do you see any objection?

MR. FAHY: If the Board please, I do. They have reserved until August 4, at their request and with the approval of the Board, the right to file their formal answer to the charge.

MR. DONALD WAKEFIELD SMITH: I do not think there should now be substituted an oral statement of their position. The statement was made by Counsel for the Respondent here that they were only served with this complaint four and a half days ago, and because of that it was impossible for them to sufficiently investigate

the allegations made in that complaint for the purpose of interposing a defense. Now, cannot Counsel request the privilege of making a statement? I would like to know whether Counsel has investigated the matters mentioned in that complaint and would be in position to file an answer now?

MR. DAY: I do not think we would be in position to file an answer, but we are in position to make a general statement as to the position of Republic Steel Corporation with relation to these charges contained in this complaint.

MR. PRESSMAN: May it please the Board, on behalf of the Steel Workers Organizing Committee, I would like to protest against any such general statement now being made by Counsel for Republic Steel Corporation. I can see absolutely no point for it. This hearing has for its basis a record. That record will have those pleadings. At the proper time Counsel for Republic Steel Corporation can enter their answer, which will be the entire statement they can make with regard to the charges in the complaint. If at some future date Mr. Day, or some other member of Counsel, wishes to go on the witness stand and make a further statement, they have the opportunity to do so. I can see absolutely no point at the present time for such a general statement except possibly making a speech for the benefit of the newspaper correspondents sitting over there at the left. If any such speech is made, of course the Steel Workers Organizing Committee will have to have an opportunity to make an answer to whatever the Republic Steel Corporation will say.

It seems to me since we have witnesses available here today to present their testimony that that is all that need be done at the present time, in view of the arrangements which have been made between Counsel for the Board

and Counsel for Republic Steel Corporation.

MR. FAHY: I just want to add, if the Board please that I am concerned with the request of Republic Steel Corporation that these hearings here permit them also to take care of their obligations in court in Cleveland on Tuesday. For that reason I am particularly anxious that we proceed as rapidly as possible with the real purpose of the hearing here—that is, the taking of certain testimony.

MR. EDWIN S. SMITH: Since, at the request of Counsel, additional time has been given for filing the formal answer to the complaint, the Board does not feel that any good purpose would be served by an oral statement at this time. Therefore, we will proceed with the hearing.

MR. DAY: I want to make a statement, if I may before you proceed.

Mr. Pressman, Counsel for the C. I. O., at the very outset of this hearing has seen fit to charge us with having in mind the making of a speech for the benefit of the newspapers. I made it a rule many years ago that when any unfounded statement was made concerning the interest that I represented, to immediately meet the situation.

I want to say to this Board that our purpose in asking for an opportunity to make a statement had absolutely nothing to do with newspapers, or publicity.

MR. DONALD WAKEFIELD SMITH: I think we realize that. The only reason this ruling has been made is because full opportunity has been given Counsel for the Respondent to file an answer within a reasonable time. We do not feel the rights of the Respondent are in any wise prejudiced by this action.

MR. DAY: We bow to the ruling. However, I do want the record to show, and I want to take the time

to remark, that it seems to me inasmuch as the charges upon which this complaint was filed were presented by the C. I. O., it does not come with good grace for Counsel for the C. I. O. to object at the outset of this hearing to Republic making some statement in refutation and in answer to those charges.

MR. DONALD WAKEFIELD SMITH: Very well.

MR. DAY: If the Board please, do you have a rule excluding the witnesses such as we have in court? I think perhaps there are other witnesses who will testify upon the same subject. If that is the rule, then we will ask for an order of exclusion.

MR. EDWIN S. SMITH: That is not a rule of the Board.

STANLEY W. SWITTER a witness called for and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Hunt) Please state your full name.
A. Stanley W. Switter.
Q. Where do you live?
A. 313 First Street, Northeast, Massillon, Ohio.
Q. What is your occupation?
A. Chief of Police of the City of Massillon.
Q. When were you appointed?
A. September 1, 1935.
Q. What is the method by which the Chief of Police is appointed in Massillon?
A. He is appointed by the Mayor and Safety Director from the certified eligible list certified by the Civil Service Commission.
Q. Did you have to take a competitive examination before you were eligible for appointment?

A. Yes, sir.

Q. Have you had any special training, apart from your experience on the police force?

A. I attended the National Police Academy in Washington, D. C., under the direction of J. Edgar Hoover, for 3 months in 1937.

Q. That is under the Federal Bureau of Investigation?

A. Yes, sir.

Q. How long have you served on the police force at Massillon?

A. Since September of 1930.

Q. Were you at any time employed in the steel mill in Massillon, Ohio?

A. I worked in the steel mill in Massillon, Ohio, from 1919 up until 1930.

Q. Did the Republic Steel Corporation then own those mills?

A. It was the Central Steel and then the Central Alloy.

Q. Chief Switter, on Tuesday, May 25th, did a Mr. Carl Meyers come into your office?

MR. DONALD WAKEFIELD SMITH: May I interrupt?

If the photographers want to take the pictures of the witness they may do so, but I wish they would do it promptly so that the witness will not be bothered with a barrage of potential shots here.

Q. (By Mr. Hunt) On Tuesday morning, May 25th, did a Mr. Carl Meyers and another man come into your office to see you?

A. Yes, sir.

Q. Who is Mr. Carl Meyers?

A. He is general manager in charge of operations

of the Canton-Massillon District, Republic Steel Corporation.

MR. DONALD WAKEFIELD SMITH: Mr. Hunt, may I inquire whether that question is directed to May 25, 1936?

MR. HUNT: It is May 25, 1937. My entire questioning concerns the events on May 25, 1937, and on.

Q. (By Mr. Hunt) What was the purpose of Mr. Meyers' visit?

MR. DAY: I object to that. I do not object to what he said.

Q. (By Mr. Hunt) Very well.

What did Mr. Meyers say to you on that occasion?

A. He told me they expected a strike at almost any time in the near future and wanted to know how the Police Department was able to handle the situation, and such information as to how we stood and how many men we had and how we would handle the situation.

Q. What did you say to Mr. Meyers?

A. I told him we were not prepared to handle any strike situation if it got real serious, and we had violence or trouble, as we had a small police department and we were not prepared for big fights such as taking place in other strikes.

Q. Did you agree to do anything that he requested, or was it just a general discussion of the strike situation?

A. It was just a general discussion. He assured me that there would not be any trouble in Massillon because they did not intend to operate that plant in case the strike was called, that the plant was so located that it would be a poor place to try to carry on with a strike in progress, and that they would shut down the plant.

MR. DAY: May I interrupt long enough to

ask Counsel if they will indicate to us in support of what charges this evidence is being offered?

MR. HUNT: Yes; in support of the general charges, I suppose. I am trying to develop the atmosphere under which the strike situation was handled, and to show the attempt of the Republic Steel Corporation directly through its officers, and indirectly with the Law and Order League, and through the socalled back-to-work-movement to intimidate and coerce the strikers.

MR. DAY: To intimidate and coerce the strikers in what respect?

MR. DONALD WAKEFIELD SMITH: I think that might be adduced by the witness.

MR. DAY: Then will the Board please take this testimony under and over our objection at this time?

MR. DONALD WAKEFIELD SMITH: You are filing a blanket objection?

MR. DAY: Yes. We will object to it upon the grounds it is not competent or admissible or relevant under any of the charges made in the complaint. And, without repeating the objection each time, may we have that objection to all of it? If any additional objection arises we will call the attention of the Board to it.

MR. DONALD WAKEFIELD SMITH: You may have the objection, but it is overruled.

MR. DAY: May we note an exception?

Q. (By Mr. Hunt) What did you tell Mr. Meyers when he told you the Republic Steel intended to close down the plant during the strike?

A. I told him I thought it was a good idea, and we would not have any trouble then.

Q. On Thursday, May 27th, did a group of men, including one Raymond Walters, come to your office to

arrange for a meeting of men who wanted to go back to work?

MR. VEACH: I object.

A. Yes, sir.

Q. (By Mr. Hunt) What did they want to do?

MR. DAY: I object to that. I suppose if there was a conversation we are entitled to it. Of course, I don't know how technical this Board is in its rules, and if I am raising these questions at the outset improperly, I beg your pardon. This is the first time I have been before the Board.

MR. DONALD WAKEFIELD SMITH: I hope you will not compel us to be too technical.

MR. DAY: Ask him what was said:

MR. HUNT: I assure the Board I will get all of the conversation ir o the record that I can, every bit of it.

MR. DAY: Then, why don't you ask him what was said.

MR. EDWIN S. SMITH: I will say for the information of Respondent's Counsel, that the Act specifically provides the Board does not have to adhere strictly to the rules of evidence.

MR. DAY: I think that is true. And, in fairness to us, I think we should have the witness state the conversation, giving what was said as nearly as he can remember, rather than having Counsel say: "What was the purpose of the meeting? What did you go there for? What did you talk about?"

MR. EDWIN S. SMITH: It is as much to our interest as it is to yours, Mr. Day, to have the story presented in as logical a fashion as possible, and in as factual a fashion as possible. I am sure Mr. Hunt is trying to do that.

Q. (By Mr. Hunt) Will you please state what was

said to you at that meeting with the Back-to-Work men?

A. They asked me if they could use the City Hall Auditorium to hold a meeting. I said yes. That was in the forenoon. They wanted to hold a meeting at one thirty in the afternoon.

MR. DAY: What was that again? I have been talking so much that I have forgotten the date myself.

MR. HUNT: That was Thursday, May 27th.

THE WITNESS: Later in the day—that is, before one-thirty—rumors got out that members of this group which represented the union drawn steel, were going to hold a vote to see whether they wanted to go back to work or not.

MR. DAY: We object to "rumors got out," and ask that that be excluded from the record.

MR. HUNT: May it please the Board, various rumors had reached the Chief, and his duty at times was to look into them. He is merely explaining his action as a reason for it in this particular case.

MR. EDWIN S. SMITH: You may proceed.

MR. DAY: We note an exception.

THE WITNESS: I investigated the rumors and saw there was quite a gang of picketers beginning to form around the City Building to find out what it was all about. They were up in the air about this voting business.

Q. (By Mr. Hunt) What voting business?

A. That was supposed to be conducted at this meeting in the City Hall auditorium that afternoon.

Q. To do what? Voting to do what?

A. To go back to work.

Q. You mean the men who came to see you asked to have a meeting and poll a vote to determine how many wanted to go back to work?

A. No, they did not ask about holding a vote. This

rumor about holding a vote got out after I had given them permission to use the City Hall.

So to break up any trouble which might start through any such voting, I told them they could not conduct a voting there; that if any vote was conducted it would have to be conducted by the National Labor Relations Board, but that they could go on with that meeting, which they did.

Q. On Friday, May 28th, did you attend a meeting with several other people, at the Conrad Hotel in Massillon?

A. I did.

Q. So far as you know, who called that meeting?

A. Mr. Case, of the Chamber of Commerce, called the meeting.

Q. What position does Mr. Case hold in the Chamber of Commerce?

A. Secretary.

Q. Who else was present at that meeting whose names you recall at the moment?

A. E. J. Lester, Pep Bordner. That is what we know him as. There were twenty-five or thirty other local business men there. Mr. Case read a brief summary of what had taken place since the strike had been called, complaining about violations that had taken place on the picket lines and on various roads. He was very much alarmed about some of the conditions that were going on—pickets carrying clubs, blocking roads, stopping trucks, and numerous other complaints. And I was called upon to tell the situation as I saw it. So I got up and gave a brief talk about the strike situation and conditions as I saw them. I also told them that the complaint that they had had not been entered in the Police Department; that I rode the picket line morning and night and I didn't have any trouble getting through there, that they didn't bother me.

But I also warned them that they had no business down in this strike vicinity, that they would be wise if they stayed away from there.

Q. (By Mr. Donald Wakefield Smith) When was this strike called? What was the date? Do you recall that?

A. Tuesday, the 25th.

Q. (By Mr. Hunt) On Tuesday, June 1, did you pay a visit to Mr. Carl Meyers at the Hotel Onesto in Canton, Ohio?

A. I did.

Q. How did you happen to pay this visit to Mr. Meyers?

A. Dr. Carnes, who was treating Mr. Meyers, came to my house and asked me to go over to the hotel and talk to Mr. Meyers.

Q. Who is Dr. Carnes?

A. He is the company doctor.

Q. You say he was treating Mr. Meyers?

A. Yes, sir.

MR. PATTON: I object.

THE WITNESS: Mr. Meyers had not called me.

MR. PATTON: I object to that. What is the purpose.

Q. (By Mr. Hunt) Had Mr. Meyers been shot by a guard before?

MR. PATTON: I object to that.

MR. DONALD WAKEFIELD SMITH: The objection is overruled.

A. Yes.

Q. (By Mr. Hunt) By a company guard or by a striker?

A. By one of his company guards that was protecting his own home.

Q. Was anyone else with you when you went to see Mr. Meyers?

A. Just the doctor.

Q. What did Mr. Meyers say to you?

A. He wanted to know what we were doing in Massillon about getting the mill going, why we were not showing interest, and did we want the mill to operate over there or not, and what was the matter with the people of Massillon, that no one had called on him since he had been confined to his room.

Q. What did you say to Mr. Meyers?

A. I told him I didn't know nothing about what they were doing, that I had enough business of my own trying to take care of things.

Q. Did you tell him you thought you had the strike situation fairly well in hand at that time?

MR. PATTON: I object to the leading question.

Q. (By Mr. Hunt) Did you say anything in reply to Mr. Meyers when he asked you what the situation was, and why the people of Massillon were not doing anything?

A. I told him it was up to them to take care of their troubles over there; if they wanted a mill they would have to fight that out themselves.

Q. On Monday, June 7, were you called upon to quell a small riot in Massillon?

A. I was.

MR. DAY: What is that date again?

MR. HUNT: Monday, June 7.

Q. (By Mr. Hunt) Tell as briefly as you can what the cause of that riot was?

MR. DAY: I object to that. Can he tell what he saw?

Q. (By Mr. Hunt) Tell what you were informed by members of your force?

MR. HUNT: Do you object to that question?

MR. DAY: Yes.

MR. DONALD WAKEFIELD SMITH: It is customary for you, as Chief of Police, to receive reports from your officers? Is that true?

THE WITNESS: Yes; that is right.

MR. DONALD WAKEFIELD SMITH: Is the statement you are about to make based upon those reports?

THE WITNESS: That is right.

MR. DONALD WAKEFIELD SMITH: The objection is overruled.

MR. DAY: Were the reports in writing or were they oral?

MR. DONALD WAKEFIELD SMITH: That is not necessary.

MR. DAY: I object to everything, and I object to all of the testimony based upon these reports.

MR. DONALD WAKEFIELD SMITH: The objection is overruled.

MR. DAY: May we note an exception.

THE WITNESS: The desk sergeant came up into the council chamber where the council meeting was in progress and called me out and told me that there was a riot over in town. I told him to call out the department and concentrate all of the men who were working into that district, which he did. And the riot was soon broken up and the crowd was dispersed.

Q. (By Mr. Hunt) What did you find out to be the cause of the riot?

MR. DAY: I object to that.

MR. DONALD WAKEFIELD SMITH: The objection is overruled.

A. Some of the C. I. O.'s had attacked a man that had been going around with a petition getting signers on a back-to-work movement.

Q. (By Mr. Hunt) Was he badly injured?

A. I don't know. He left town.

Q. On Tuesday, June 8, did you quell another riot in connection with an injury received by one of the C. I. O. workers?

A. I did.

Q. Will you tell us on the basis of your objection what the cause of that small riot was?

MR. DAY: Same objection.

MR. DONALD WAKEFIELD SMITH: The objection is overruled.

MR. DAY: May we have an exception?

A. A fellow named Joe Martin, president of the C. I. O. Lodge there in Massillon, went down to union drawn steel to investigate some of the cars that were supposed to be taken out of the plant, and he got into an argument with one of the company guards, or two of the company guards, about trespassing on the property. The argument was whether he was on railroad property or on company property. And in the argument one of the guards is supposed to have been disarmed. Then he swung at Martin with a gas club, and in the rumpus the gas club was discharged, burning Martin in the back of the neck. A couple of hundred pickets gathered around there and things were getting edgy for a while. They wanted this crowd taken back out of the plant. And I advised them to file their proper charges against the man through court procedure instead of in violence.

Q. (By Mr. Hunt) Were any such charges filed?

A. Through their attorney having filed charges against the man and the company guard. And the next morning when I arrived at the office I took the warrant down to make the arrest and I found that the man had left through the night some time. I have not found him since.

Q. Did you make any efforts to reach him?

A. I talked to some of the officials of the company and they reassured me as soon as he showed up they would turn him over to me.

Q. On Tuesday, June 8, were the telephone wires to the main office of the Republic Steel plant cut by someone?

A. Yes, they were.

Q. Do you know by whom?

A. No.

Q. On Wednesday, June 9, did you go to see Mr. Carl Meyers at his room in the Hotel Onesto in Canton, Ohio?

A. I did.

Q. Who went with you?

A. The city solicitor, Richard Hardman, and Glen Lanham.

Q. Who is Mr. Lanham?

A. He is manager of the Erie Chevrolet Motor Company.

Q. How do you spell his name?

A. L-a-n-h-a-m.

Q. Who was with Mr. Carl Meyers?

A. A fellow by the name of Gordon Hesse.

Q. What was his position?

A. He is connected with the sales department.

Q. Of what?

A. Of Republic Steel Corporation.

MR. EDWIN S. SMITH: May I interrupt to ask this question? How did this meeting happen to take place? Did you ask to go over there, or were you asked to go over there?

THE WITNESS: Mr. Lanham came to my office and told me they wanted me over there and asked me if I would go along with him, that he was going over. And I agreed to go along and I took the City Solicitor with me.

Q. (By Mr. Hunt) At the beginning of this conference with Mr. Meyers, what did Mr. Meyers say to you?

A. He wanted to know what the hell was going on over there; were we going to allow the hoodlums to run things; and why they cut the telephone wires, and why the hell we didn't take action such as the Chicago police did and put them where they belonged.

Q. What did he say? Do you remember his exact words that he used in regard to the Chicago police?

A. He said they knew how to handle the situation, if we did not, and if we didn't wake up we wouldn't need what police force we had; we wouldn't need a chief of police, and we wouldn't need a city solicitor, and we wouldn't even have a first class post office; that Massillon would be a junction if that mill shut down, which it looked as if it would with the wires cut and they would have to evacuate the offices. And he got down to talking about evacuating the office.

Q. What did you say in reply to Mr. Meyers' remarks about the Chicago police?

A. I told him there was no comparison, that in their plant in Chicago they had only about 1,400 employees and Chicago had a hundred police on the scene to handle the situation, and 18 of them was put in the hospital, and if my 18 men would be put in the hospital I would be in poor shape.

Q. How many men were there on your force at that time?

A. There were eighteen of us.

Q. Did you say anything else to Mr. Meyers in regard to the Chicago police, or breaking up the strike in Massillon?

A. I told him it was not our job anywhere, that we wasn't a strike-breaking outfit, and, furthermore, that the mill was down in the county out of the city limits.

Q. Did Mr. Meyers at this conference discuss with you the problem of evacuating the men in the main office, or evacuating the main office of the plant and getting out certain employees and certain company records?

A. He did.

Q. And did you arrange with him as to the best methods of getting them out?

A. I did.

Q. What plan did you agree to? What did you agree to do?

A. To put what stuff they wanted in their automobiles and move out of the plant or out of the office. I assured them of safety through the picket lines, that they would not be bothered or molested, or their cars searched, or bothered in any way, which I did.

Q. At this conference with Mr. Meyers, did Mr. Meyers offer you arms and ammunition owned by the Republic Steel then situated in his main office?

A. He did.

Q. What did he say when he offered you the arms and ammunition?

A. He said it will be a start towards having some equipment which was badly needed, to help us in any situation that might arise.

Q. Did Mr. Meyers give you a letter to someone to arrange for getting them out, or to give you authority to remove the arms and ammunition?

A. He did. He gave me a letter to deliver to Raleigh France, who was in charge of the main office over there, instructing about the evacuation and about what he should give me.

Q. Did you proceed to take the employees and the records out, as you had planned with Mr. Meyers?

A. I did, at 4 o'clock in the afternoon.

Q. How did you arrange to remove the arms and ammunition?

A. We put them in the trunk of a car and hauled them out with the rest of the stuff.

Q. Were the arms and ammunition turned over to you at that time?

A. No, not until later that evening.

Q. Describe the circumstances under which they were turned over?

A. I met Raleigh France out at the Brookside Coun-

try Club, about 4 miles north of Route No. 30. I met him out there, and him and Lieutenant Adler turned the guns and ammunition over to me.

Q. Who was Lieutenant Adler?

A. A lieutenant of the company police.

Q. What time of day was it?

A. About 8 o'clock at night, shortly after dark.

Q. Why was it turned over so secretly?

MR. DAY: I object.

MR. HUNT: I will withdraw the question.

Q. (By Mr. Hunt) Did anyone say to you, or did Mr. Meyers or anyone else say to you that there was need for caution in accepting these arms and ammunition?

MR. PATTON: I object.

A. There was a little fidgetiness about it. We didn't know whether we might get into trouble by doing it or not.

Q. (By Mr. Hunt) Was that the reason for meeting after dark, to have the arms and ammunition turned over?

A. Yes. We didn't want to come out in the open and transfer them from one car to the other.

Q. On Friday, June 11, did you have another conference with Mr. Carl Meyers at the Hotel Onesto in Canton?

MR. EDWIN S. SMITH: After this matter of transferring the arms and ammunition at that time of night, which you say was due to the fact they did not want to have it come out in the open, are you assuming that from all the circumstances of the case, or was there anything said by anybody connected with the company suggesting this manner of transfer and for any reason that looked toward freedom?

THE WITNESS: Well, I was not very anxious to take the stuff from the company anyway, although I needed it for my department and I wanted to get it when I had a chance to get it for nothing, and I thought I had better grab onto it.

Q. (By Edwin S. Smith) Who made the arrangements to transfer at that time of night?

A. Raleigh France called me up from Canton and told me he would meet me anywhere I said and asked me where a good place would be. And we chewed around a little bit and then we decided on the Brookside Country Club, that that would be as good a place as any.

Q. (By Mr. Hunt) Chief Switter, on Friday, June 11, did you have another conference with Carl Meyers at the Hotel Onesto in Canton.

A. Yes, sir.

Q. Who was with you?

A. Richard Hardman, the city solicitor, and Robert Hoffman, city prosecutor, and Chief Deputy Sheriff France, of Canton, of Stark County.

Q. At that conference, did Mr. Meyers ask you to assist him in getting food into certain guards and maintenance men then inside the plant?

A. He did.

Q. How many guards were there?

A. About 16 guards.

Q. And about four maintenance men?

A. About sixteen guards and about four maintenance men.

Q. What did he say to you?

A. He said that they had about four or five days' supply of food in there, and that it was up to us to get some food in there, between the sheriff and I, and that the maintenance men were keeping the coke ovens hot; that if that battery of coke ovens was ruined it would be goodbye for Massillon, that they wouldn't ever start that plant again.

Q. The following day, on Saturday, June 12, did you go to C. I. O. headquarters to see what you could do about getting food into the plant?

MR. DAY: To the C. I. O.?

MR. HUNT: Yes; to the C. I. O.

A. Yes, I did.

Q. (By Mr. Hunt) Who was with you?

A. Richard Hardman and myself.

Q. When you got there did you see a man by the name of Marshall?

A. Yes.

Q. Did Mr. Marshall ask you to do anything?

MR. DAY: May we take this under objection also?

MR. EDWIN S. SMITH: The objection is overruled.

MR. DAY: An exception, please.

A. Mr. Marshall and the insurance agent were there trying to make some arrangements to get into the office.

Q. (By Mr. Hunt) Why did Mr. Marshall want to get into the office?

A. He is the man who takes care of the company relief and welfare and some insurance policy that they run, or something.

Q. Did the C. I. O. strikers object to his going into the office, or did they agree that he could go into the office?

MR. DAY: I do not want to be technical or to be persistent, but aren't we entitled to the conversation?

MR. EDWIN S. SMITH: I presume his answer will include his conversation.

Say, as nearly as you can recall, what was said by both sides.

THE WITNESS: Mr. Marshall and this insurance man wanted to get in to see the records that were left there, and the C. I. O. at this time agreed that they could go in if they would take a couple of pickets along with them; that they did not just like the idea of Mr. Marshall being a company man, going in and out of there without them knowing what was going on.

Q. (By Mr. Hunt) Did Mr. Marshall and this insur-

ance man from the Metropolitan then go into the main office?

A. No, Mr. Marshall went over to his own little office, which is across the street from the main office. And I don't know whether they ever went in or not.

Q. Did you discuss with the pickets the problem of getting food into the plant to the sixteen guards and four maintenance men?

A. Yes, sir. We talked to them about the conditions and the circumstances of the coke ovens and the few men who were left in there, and that the plant was closed down, and tried to put some food in there. And they wouldn't listen to it at all. They said that they had men on the picket lines that could be there, who were capable of attending to those ovens, and those were the ones who should be hired instead of the foremen doing it; and they wouldn't stand for any food going into the plant.

Q. Why did they object to the foremen doing it apart from the fact that they were not strikers?

A. Because they had never done that kind of work before and they was the bosses of the job and not the fellows doing the work.

Q. After this meeting at the C. I. O. headquarters, did you return to your office?

A. I did.

Q. And did you then receive a telephone call from Mr. Carl Meyers?

A. Yes, sir.

Q. Did Mr. Carl Meyers seem a little angry?

A. Yes. He was very much put out about me authorizing the C. I. O. pickets to go on the company property and escort Mr. Marshall into the office. He demanded that I put Mr. Marshall into the office without being escorted by any pickets. I told him that I didn't know what I was going to do about it, that it seemed as though that was what the outfit settled on in the agreement that was reached.

And he demanded that I tell him right away what I was going to do. I told him we wasn't able to handle the situation and start an argument of that type, that we were supposed to keep things peaceful, and that if they did not want the relief taken care of, then let them wait until it was over and then do it.

He demanded that I give him a definite answer right away. And he hung up in a huff; and that was the end of that.

Q. When you agreed with the strikers to allow them to send in a picket or two with Mr. Marshall, your idea was that this was a concession they could well make in order to keep peace and prevent bloodshed?

MR. DAY: I object to that. I do not believe that would be a competent question before any board.

MR. EDWIN S. SMITH: He may ask the witness what his purpose was.

Q. (By Mr. Hunt) What was your purpose in yielding to the pickets' demand that they have a picket accompany Mr. Marshall?

A. I knew they were going to talk about getting food in there, and I thought if we might give a little they might give a little.

Q. You mean each side concede something?

A. That is right.

MR. DAY: May I ask the witness now whom he means by "we"?

THE WITNESS: The solicitor and I were trying to get the food into the plant.

Q. (By Mr. Hunt) After you finished your talk with Mr. Meyers, after you finished your telephone talk with Mr. Meyers, where did you go?

A. I went out to lunch over to town.

Q. You and the city solicitor?

A. That is right.

Q. Whom did you meet?

A. We met Mr. Case of the Chamber of Commerce.

Q. Did you tell Mr. Case of your telephone conversation with Mr. Meyers?

A. I did.

Q. What did Mr. Case say?

MR. DAY: I object to that.

MR. EDWIN S. SMITH: Objection overruled.

MR. DAY: An exception, please.

Q. (By Mr. Hunt) What did Mr. Case say to you?

A. He said, "Wait until we get hold of J. Lester. I will have J. Lester call up Mr. Meyers and call him off for a few days until we know what we are going to do."

Q. You mentioned Mr. J. Lester several times. Who is Mr. J. Lester?

A. I think he is manager of the Massillon Rubber Company.

Q. Is he one of the spokesmen of the Law and Order League of Massillon?

A. He is.

Q. Did Mr. Case, to your knowledge, get in touch with Mr. Lester?

A. Yes, he did.

Q. What did Mr. Lester do?

MR. DAY: I object.

Q. (By Mr. Hunt) To your knowledge.

MR. EDWIN S. SMITH: The objection is overruled.

MR. DAY: An exception, please.

A. He went to a telephone some place and called up Mr. Meyers at Canton—that is, Mr. Carl Meyers. And then shortly he called back the restaurant where we were and he wanted to talk to the city solicitor. And he told him it was all right, that he could stall off for a few more days before he wanted our answer.

Q. (By Mr. Hunt) Then, on Sunday, June 13, did you attend the meeting at the Chamber of Commerce at which

Mr. J. Lester and Mr. Case and others of the Law and Order League were present?

A. I did.

Q. Did they talk about raising money to provide for extra police on the Massillon Police Force?

A. They did, yes.

Q. (By Mr. Edwin S. Smith) Why did you attend this meeting? Were you asked to go?

A. I was requested to be there; yes.

Q. By whom?

A. Mr. Case, of the Chamber of Commerce.

Q. (By Mr. Hunt) This group of men you met at the Chamber of Commerce were all active in the Law and Order League, were they?

A. Yes.

Q. What did they say in regard to raising money to put on extra police?

A. They wanted to know how much it would cost to put on these police, and how many we would need in order to maintain law and order, and so on, and how much equipment. They argued why the mayor would not appoint the police. And we threshed around for a couple of hours there and talked about the Monroe situation.

Q. What was said about the Monroe situation?

MR. DAY: Will you take this conversation also under the objection and exception?

MR. EDWIN S. SMITH: Yes.

Q. (By Mr. Hunt) Do you mean Monroe, Mich.?

A. That is right.

Q. What was said about Monroe, Mich.?

A. They said they done a good job up there; they smashed the picket lines up there and they deputized enough police to do it.

Q. Who said that?

A. It was said in the conversation there. There was seven or eight or more talking. I just couldn't recall

who said that.

Q. Did others make similar remarks?

A. That turned out to be the main topic of conversation, because we decided to adjourn the meeting until the next morning, when they requested that I have the mayor and safety director and the city solicitor there.

Q. And the next morning you met with the mayor and the city solicitor and the safety director and the same group of men at the Chamber of Commerce?

A. That is right.

Q. What was discussed at that meeting while you were there?

MR. DAY: I object.

MR. EDWIN S. SMITH: Objection overruled.

MR. DAY: May I have an exception?

A. They put the heat on the mayor about appointing some special police, and he argued that the city was broke and did not have the money to do it. And this group said they could raise the money.

Q. (By Mr. Hunt) How much money did they say they would raise?

A. We figured fifty men and the equipment would take about seven or eight thousand dollars for just a couple of weeks.

Q. (By Mr. Edwin S. Smith) Just before you ask another question there, let me ask this one: You say they put the heat on the mayor. What did you mean by that? What was said to the mayor?

A. They wanted to know why he would not appoint more police. And finally he agreed to appoint them.

Q. (By Mr. Hunt) They agreed to raise $8,000?

A. Yes.

Q. Which would pay for 50 policemen for 2 weeks?

A. And the equipment that was considered necessary to equip the department.

Q. When the mayor agreed to do that, did he make any condition?

A. Yes, he agreed if he took on the 50 police that not one of them would go to the picket line.

Q. Was that agreed to with enthusiasm?

MR. DAY: I object to that.

MR. HUNT: It is all right to describe enthusiasm, isn't it?

MR. DONALD WAKEFIELD SMITH: He is asking how it was.

MR. DAY: I object.

Q. (By Mr. Edwin S. Smith) What was the reaction on the part of the people?

A. They did not like it so well.

Q. (By Mr. Hunt) Did they say anything?

A. No, sir. We left them, and it was up to them to raise the money.

Q. Were there any company men present?

A. How is that?

Q. Were there any company men present, any leaders of the Back-to-Work Movement at this particular meeting?

A. Not that I know of.

Q. Was Mr. Gordon Hesse present?

A. No, sir.

Q. Or Mr. Carl Meyers?

A. No, sir.

Q. Or anyone from the union drawn steel?

A. No, sir.

Q. On June 14, or later the same day, did you have another meeting with Mr. Carl Meyers at the Hotel Oneseto?

A. Yes. The mayor and the city solicitor and safety director and city prosecutor and myself went over to see Mr. Meyers and told him that we could not get the food in as we promised.

MR. DAY: I object.

MR. EDWIN S. SMITH: Objection overruled.

MR. DAY: An exception, please.

Q. (By Mr. Hunt) Did you say to him that you could not get the food in as he had requested?

A. We told him we wasn't going to, that we wasn't bringing any food down to them, or to the pickets, either.

Q. Did you give any reason for not doing so?

A. Because we figured it was not our job; it was over in the county and it was not up to us to get food down to them. And then he lit on us and told us it was a funny thing that a little town like Monroe could build up a police department big enough to get their mill operating again and control the situation, and it was damned funny we couldn't do something. We left and he was in a huff then.

Q. Did he say to you that Massillon was going to become a prairie if they didn't get it?

MR. DAY: I object.

MR. EDWIN S. SMITH: The objection is overruled.

MR. DAY: An exception, if you please.

A. He said that Massillon would be a prairie and it wouldn't need a mayor or safety director, or any of us.

Q. (By Mr. Hunt) You mean he repeated more or less what he had said at the previous meeting?

A. That is right.

Q. Then nothing was decided upon at that meeting regarding food and getting food in?

A. We decided we wasn't going to have nothing to do with it.

Q. What did Mr. Meyers say in reply to that?

A. He said he would take care of it himself, that he wouldn't let those people starve.

Q. (By Mr. Donald Wakefield Smith) You have made several statements here that the company representative said that Massillon would be a prairie. How large a city is

Massillon, to your knowledge?

A. Thirty thousand.

Q. (By Mr. Hunt) How old a city is it, to your knowledge?

A. About 110 years old.

Q. It was there before the Republic Steel Company came in, to your knowledge?

A. Yes, sir.

Q. Now then, on Monday, June 21, was there more or less of a crowd assembled in front of the City Hall, of men who were in the back-to-work movement?

A. Yes, they stormed the City Hall and came into the lobby, about 300 of them.

Q. Did you speak to them, or did their leader speak to you?

A. They demanded a meeting with the mayor and I. The mayor came down to my office after me and we waited a few minutes until the city solicitor came, and then the three of us went upstairs and met a group of them and asked them to select a committee to come into the safety director's office and talk it over and find out what was on their minds. Then they was all up in the air about wanting to go back to work and wanting me to give them protection to go back to work.

Q. Was there a man named Nick Lincolnhaley who was the spokesman of the group?

A. Lincolnhaley and Paul Ryder seemed to be spokesmen.

MR. DAY: May we have the same record on this conversation? I object.

MR. EDWIN S. SMITH: Objection overruled.

MR. DAY: An exception.

Q. (By Mr. Hunt) What did you say to these men in response to their request for protection to go back to work?

A. I told them they should not rush things, that they

was getting all excited, but things would work out probably sooner or later. And they demanded then to know why I refused to accept this several thousand dollars that was supposed to have been raised for the special police.

Q. You mean the several thousand dollars that the Law and Order League promised to raise?

A. That is right.

Q. What did you say?

A. I told them it had never been raised. And they said, "If it is raised again will you accept it now?" I said no.

Q. Why did you say no?

A. Because I was not going to take on a gang of men to go down and break the picket lines.

Q. The picket line, as I understand it, surrounded the entrances to the plant. Is that right?

A. That is right.

Q. The plant is in the county?

A. That is right.

Q. The County of Stark?

A. That is right.

Q. The main office building is across a thoroughfare from the plant. Is that right?

A. Yes.

Q. And the main office is in the city limits?

A. That is right.

Q. And it is within your jurisdiction?

A. That is right.

Q. At this meeting in this back-to-work movement, did the mayor make any remarks?

A. They requested us—

Q. I say, did the mayor make any remarks to the men in your presence?

A. He talked to them and asked them to hold themselves down, that he did not want any bloodshed or trouble if it could be avoided.

Then, after that conference broke up, they demanded that we go out and speak to the balance of the group that was out in the lobby.

Q. And did you do so?

A. I did.

Q. What did you say to them?

A. I told them to hold themselves a few days to give the Mediation Board at Cleveland a chance to do something before they started any back-to-work movement, and I told them then and there that I wasn't going to take any fifty greenhorn men and go down to the picket line under no consideration.

Q. (By Mr. Donald Wakefield Smith) By the Mediation Board, you meant the Mediation Board appointed by the President of the United States?

A. Yes, sir.

Q. In order to break up these strikes?

A. That is right.

Q. (By Mr. Hunt) Did the mayor also address them again and speak to them?

A. He did.

Q. What did he say?

A. He asked them to be patient. He said, "Boys, we don't want any trouble or bloodshed down there." He said, "We don't want any trouble or bloodshed down there, because don't forget if you do it will be on both sides."

Q. After this meeting was over where did you go?

A. I went to Canton, Ohio.

Q. Who went with you?

A. The mayor and the city solicitor and myself.

Q. Whom did you go to see?

A. We went to see Colonel Lawler.

Q. Who is Colonel Lawler?

A. He is the National Guard observer in the Massillon district.

Q. What did you say to Colonel Lawler?

MR. DAY: I object.

MR. EDWIN S. SMITH: Objection overruled.

MR. DAY: An exception, please.

Q. (By Mr. Hunt) What did you say to Colonel Lawler?

A. I asked about the objections in Canton as he was observing them. We went into quite a lengthy talk about law and order.

Q. In Canton or Massillon?

A. In Canton. Then we started to talk about the Massillon conditions and our own troubles, and I asked him to come over to Massillon from Canton to observe the situation over there and tell us what he thought of it.

Q. What did he say to you?

A. He said he had been over there personally and that his other observers had been over there, and that from his observations Massillon was in fine condition for having a strike situation there, that everything was pretty peaceful, and as peaceful as could be expected under such conditions, and he complimented us very highly on the way we had been handling the situation.

Q. Did you have any discussion on any other subject with Colonel Lawler?

A. We talked about technical violations that was on the way, and so on.

Q. Technical violations of what?

A. Of the pickets carrying clubs and sticks and the stones being piled around and roads being blocked, and so on.

Q. What did Colonel Lawler say to you with reference to technical violations of the law?

A. He said we couldn't just argue over every little technical point of the law when an emergency such as a strike condition arose; that it would be impossible.

Q. And he complimented you very highly on the way you handled the situation, you say?

A. He did.

Q. He said you had it well in hand?

A. He did.

Q. After you left Colonel Lawler did you attend a meeting at the City Council at Massillon?

A. I did.

Q. Was the subject of extra police discussed at this meeting of the City Council?

MR. DAY: Same objection.

MR. EDWIN S. SMITH: Objection overruled.

MR. DAY: Exception.

A. I did. I asked the City Council to increase the police force, that I was using some of my men in the strike zone that I needed uptown.

Q. What was the action of the City Council on your request?

A. They was kind of cold on it. We went into a meeting in the City Solicitor's office after the council meeting with the council, a committee meeting. They told me not to get hot and bothered about it, it was down in the county, and it was up to the sheriff.

Q. Now, on Friday morning, June 25th, did a group of men including Mr. E. J. Lester and Mr. Case come to see the mayor at the City Hall with a petition?

A. Yes, sir; they did.

Q. And did they see you also?

A. Yes, sir; they did.

Q. Describe that meeting as best you can.

MR. DAY: Let the record show the same objection and exception. I dislike to keep doing this all the time, but I think it is necessary for the sake of the record.

MR. EDWIN S. SMITH: I think that the Reporter understands that when Counsel says same record, it means the objection is made, overruled, and exception taken.

MR. DAY: That is right, to the entire conversation.

Q. (By Mr. Hunt) This group that came with this petition, were most of this group members of the Law and Order League?

A. They were.

Q. They saw you, the mayor, and the city solicitor?

A. They requested the presence of the mayor, the city solicitor, and safety director, and the sheriff of Stark County and myself.

Q. In whose office did you meet?

A. In my office.

Q. Did anyone read this petition to you?

A. An attorney by the name of Elson Wessler.

MR. HUNT: Elson Wessler.

MR. DAY: Has one "s," hasn't it?

Q. (By Mr. Hunt) Who read the petition to you, Mr. Wessler?

A. Yes, sir.

MR. DAY: I want to say the reason that I am so familiar with this is I was born in Canton, Ohio.

MR. DONALD WAKEFIELD SMITH: I was just going to ask if Counsel for the Respondent—why he was so familiar with Counsel for the Law and Order League.

Q. (By Mr. Hunt) Did you ask Mr. Wesler to read this petition a second time.

A. I did. There were two captains of the National Guard came in, and I requested that they hear the petition, too, so they could make their report back to Colonel Lawler, who was still in charge at Canton.

Q. Is this a copy of the petition given to you by this group of citizens?

A. Yes, sir.

MR. HUNT: I would like to offer this in evidence.

MR. DAY: May I see it?

MR. HUNT: Yes.

MR. EDWIN S. SMITH: Any objection?

MR. DAY: Yes, there is an objection along the same lines to all of this, that is all.

MR. EDWIN S. SMITH: Very well, that is admitted as Board's Exhibit No. 2.

(Thereupon, the document above referred to was received in evidence and marked "Board's Exhibit No. 2")

Q. (By Mr. Hunt) When Mr. Wesler completed reading the petition for the second time, what happened?

A. Then Franklin Maier, another attorney, went into quite a long talk about the breakdown of law and order, and so on, in the City of Massillon, and demanded that we do something, that we were going to have to do something, and that the mayor had the authority to appoint special police, and that there was a State statute providing that even though the city was broke that the mayor had the power to borrow the money from the banks and put them on.

Q. Was any reference made to the $8,000 which the same law and order citizens agreed to raise some time before?

A. Yes, sir; we were accused again of not accepting the money and I told them the money never was raised, and they put up the same argument that it was, but Mr. Case came to my rescue and said it wasn't.

Q. That was Mr. Case, Secretary of the Chamber of Commerce?

A. That is right.

Q. He was present at the meeting where the money was to be raised?

A. Yes, sir.

Q. Did he say how much had been raised?

A. Only a few hundred dollars and that was returned to the ones who had sent it in.

Q. Did you state at this meeting where they were criticizing you, that you had arrested all men against whom warrants had been sworn out?

A. I told them we had a lot of cock and bull statements, the same as they did, and that there had been no breakdown in law enforcement, and that where we had affidavits and warrants we brought everybody in we had warrants and affidavits against.

Q. What do you mean you had cock and bull reports?

A. We had all kinds of reports of fellows being afraid to go home and being in fights, and being beat up, but only a few came in and actually signed affidavits and filed complaints which went on record.

Q. In that connection, so far as your recollection serves you, do the records in your office show that there was any increase in violations of law and order after the strike began over the period before the strike?

A. We had less arrests during the strike than what we call normal times.

Q. You had fewer arrests during the strike than in normal times?

A. That is right.

Q. Fewer arrests for violation of law and order?

A. That is right.

Q. Fewer arrests for violence?

A. That is right.

Q. And you arrested everyone who was actually charged with actual violence?

A. Where the officers saw them themselves, where they could file charges, and wherever anybody came in court and filed an affidavit an arrest was made.

Q. Now, after the reading of this petition, did you or the mayor agree to do anything in regard to the request for extra men?

A. We agreed to put on some more men; yes, sir.

Q. And special policemen?

A. Yes, sir.

Q. Was there any requests at this meeting for you to put on what they call "home guards"?

A. No.

Q. After this meeting was over where did you go? Did you arrange to quarter the National Guard expected in Canton or Massillon?

A. We met with Captain Marshall and Captain Donald, and Mr. Hardman, and I took them around to two or three different places to look over what might be suitable quarters for the troops if they came in there.

Q. Where did you decide to put them?

A. We decided to put them in the old lodging house the city used to have in one of the parks.

Q. It was agreed they would be quartered there?

A. That was the last I knew of them.

Q. On that evening when you returned to your home what time was it?

A. About five thirty.

Q. Did you receive two or three telephone calls from Mr. Gordon Hesse of Republic Steel Corporation?

MR. DAY: I object.

MR. EDWIN S. SMITH: Objection overruled.

MR. DAY: Exception.

A. I did.

Q. (By Mr. Hunt) What did Mr. Gordon Hesse say to you?

A. He said he had information there was going to be an invasion on the city by the Akron rubber workers and Canton C. I. O.'s.

Q. How many men did he say were going to invade the city?

A. Oh, it varied from five to ten thousand.

Q. Did he tell you where he got the information?

A. He said he got the information through the Canton office.

Q. The Canton office of the Republic Steel?

A. I suppose so.

MR. DONALD WAKEFIELD SMITH: About what date was this?

MR. HUNT: Friday, June 25th.

MR. EDWIN S. SMITH: We will recess for 5 minutes.

(Thereupon, at 11:35 o'clock a. m., a recess was taken until 11:40 o'clock a. m. of the same day.)

MR. EDWIN S. SMITH: The hearing will be in order.

Q. (By Mr. Hunt) Chief Switter, you were telling us that you had received two or three telephone calls from Mr. Gordon Hesse of the Republic Steel Corporation early Friday evening, June 25th, and that he said he had heard from the Canton office that there was to be an invasion by five or ten thousand men from Akron. What did you say in reply to that?

A. I told him it sounded like more bull we had heard about other invasions, and he said he could not afford to take a chance, and kept demanding to know what we were going to do. I told him there wasn't much we could do if 5,000 men came into town. He said we have got to do something, and I said we will wait until they come, and then he called me back again in a few minutes and said, "What are you going to do about it?" and I said, "Well, I can call out the police department and stand by to see what happens."

Q. Did you do that?

A. I did. I ordered the police department called out and I went on down to the office myself, and Hesse stated he would have his gang over to back me up.

Q. When did he tell you that, over the telephone?

A. Over the telephone; that is right.

Q. Then you went down to your office in the City Hall?

A. That is right.

Q. And called out your force?

A. I had ordered them called out before I left home.

Q. All right, then what happened after that?

A. When I got down to the City Hall there were 200 men standing around.

Q. Were some of them the invaders?

A. No, they was all local fellows, mill men, and so on.

Q. Then, did someone ask you to put in a three alarm signal for the American Legion?

A. Yes, a fellow named Paul Ryder.

MR. DAY: Same objection.

MR. EDWIN S. SMITH: Overruled.

MR. DAY: Exception.

Q. (By Mr. Hunt) Is that the fellow in the back-to-work movement that was made some time before?

A. That is right.

Q. What did you say?

A. I said I didn't have any authority to call out the Legion. He said he would call somebody who did have authority to call them out, so I identified him to the fire chief, who did put on the signal for the American Legion, which has an organization there that comes out for any floods or fires or any civic movements of that type.

Q. When he put in the alarm the American Legion appeared?

A. That is right.

Q. Did anyone else appear?

A. Oh, some of the Legion boys appeared and wanted to know what it was all about and what was going on.

Q. Did anybody else besides the Legion show up at the City Hall when the alarm was put in?

A. Oh, there was hundreds of people ganged around there then.

Q. There was a big crowd in front of the City Hall?

A. Yes, it grew to a couple thousand.

MR. EDWIN S. SMITH: How many Legion people came?

THE WITNESS: I don't know how many. I didn't look out the window at them.

MR. EDWIN S. SMITH: Were they armed, these Legion people?

THE WITNESS: No.

Q. (By Mr. Hunt) Were most of these people in the crowd of 2,000 or more, were they members of the American Legion?

MR. DAY: He said he didn't go out and look.

Q. (By Mr. Hunt) Or were they curiosity seekers?

A. There were all kinds of people, curiosity seekers wondering what the alarm was for, and so on.

MR. EDWIN S. SMITH: How do you know what the composition of the crowd was? Did you get reports? Did you say you didn't go out and look?

THE WITNESS: I didn't at that time. I stayed in the office. The telephones were quite busy and there was a crowd in my office, Gordon Hesse, young Ryder, J. Lester, and—

Q. (By Mr. Hunt) That is Mr. Gordon Hesse of the Republic Steel?

A. That is right.

Q. Mr. Ryder of the back-to-work movement?

A. That is right.

Q. Who was the other man you mentioned?

A. J. Lester.

Q. Mr. J. Lester of the Law and Order League?

A. That is right.

MR. DONALD WAKEFIELD SMITH: Did you see the crowd from the window of your office?

THE WITNESS: No, later I went out and talked to them.

Q. (By Mr. Hunt) All right, when these men were in your office what happened then, what did they do?

A. Why, Gordon Hesse grabbed the telephone and called up the Canton office of the Republic Steel and wanted them to send somebody over to see the enthusiasm that Massillon was showing and what a crowd was backing up the Massillon gang to go back to work, and they told him, "Why, we have already been over and saw the enthusiasm."

MR. DAY: I object to this man testifying about some man on the other end of the telephone told Gordon Hesse. I think perhaps that is going a little too far in any place.

Q. (By Mr. Hunt) Then after—

MR. EDWIN S. SMITH (Interposing): I think that is a proper objection. How do you know what was said to Mr. Gordon Hesse?

Q. (By Mr. Hunt) How do you know?

A. He told us himself?

Q. He informed you men had been over from the Republic Steel to see the crowd?

A. That is right.

Q. Over the telephone did you actually hear him tell Mr. Gordon Hesse they had been over to see the enthusiasm?

A. I did.

Q. Of the back-to-work movement?

A. I did.

Q. Did Mr. J. Lester say anything to you at this time?

MR. DAY: Same objection.

MR. EDWIN S. SMITH: Overruled.

MR. DAY: Exception.

Q. (By Mr. Hunt) Did Mr. J. Lester say anything

to you at this time? I would like to know what court that would be objectionable in.

A. He wanted to know if I wanted him to go home and get his shotgun.

Q. Did he seem to be pretty excited? What was his general manner?

A. He was pretty nervous, and said he would go home and get it if I thought he would need it or I would need it.

MR. DONALD WAKEFIELD SMITH: Did he say why he thought you would need it?

THE WITNESS: No.

Q. (By Mr. Hunt) Did you go out to address the crowd at this time?

A. Not then, the photographer from the local newspaper came around.

Q. Why did he come around.

MR. DAY: I object to the form of the question.

MR. HUNT: I withdraw the question.

MR. DONALD WAKEFIELD SMITH: He is rephrasing his question.

Q. (By Mr. Hunt) Did anybody, to your knowledge, ask the photographer to come?

A. No, he was in my office and asked what it was all about and I told him I didn't know, and then Gordon Hesse asked him to take a picture of the crowd.

Q. Why did Gordon Hesse want a picture?

MR. DAY: I object to that.

MR. HUNT: I will reframe my question.

Q. (By Mr. Hunt) Did Mr. Gordon Hesse say why he wanted a picture of the crowd?

MR. DAY: Same objection.

MR. EDWIN S. SMITH: Overruled.

MR. DAY: Exception.

A. He said it would be great to have a picture showing the enthusiasm of the group.

Q. (By Mr. Hunt) Showing what?

A. Showing the Republic Company in Massillon wanted the steel mill there.

Q. To your knowledge, was the picture taken?

A. I don't know. I understand it was. I didn't ever see it.

Q. When you went out to see the crowd what was the general—Before you went out to see the crowd did you get any word from the National Guard that there was no threat of an invasion whatsoever?

MR. DAY: Same objection.

MR. EDWIN S. SMITH: Overruled.

MR. DAY: Exception.

A. I did, there was two officers of the National Guard came in and wanted to know what was going on, and I told them, and they reported to me that their intelligence division could find no trace of any mass movement on Massillon and for God's sake to break up that crowd before something happened if I possibly could, which I did. I went out and talked to them and thanked them for having been willing to back me up on any invasion on the city and asked them to disperse and go home.

MR. EDWIN S. SMITH: I am not clear as to when the National Guard appeared on the scene. Was it before or after this conference in which you were told there was to be an invasion?

MR. HUNT: The National Guard moved in later. There were two National Guard officers there.

MR. EDWIN S. SMITH: The troops weren't there at this time?

MR. HUNT: The troops weren't there at this time; no, sir.

MR. EDWIN S. SMITH: All right, go ahead.

MR. DONALD WAKEFIELD SMITH: May I ask the witness if the troops were there at the time the two officers came into your office?

THE WITNESS: No, they were not.

Q. (By Mr. Hunt) When you went out and addressed the crowd did you feel the crowd was highly excited?

A. Yes, sir; anything could have happened then. They were in a bad frame of mind.

Q. What did you mean, "anything could have happened"?

A. If any suggestion had been made about going down to the picket lines, or any pickets had shown up around there I would have just hated to have been there myself, it would have been too bad.

MR. DONALD WAKEFIELD SMITH: May I inquire what was the distance from the picket line—that is, the plant—to the point where this crowd was assembled?

THE WITNESS: Well, to the Union Drawn Steel it would have been about a half or three-quarters of a mile, and to the Republic plant about a mile and a half.

Q. (By Mr. Hunt) Did any members of the American Legion tell you or say to you that they resented being called out in that manner?

MR. DAY: I object to that. I do not see how that could possibly be competent what some of the American Legion members said to someone else.

MR. EDWIN S. SMITH: No, he asked if anybody told him.

MR. DAY: Note an exception.

Q. (By Mr. Hunt) Yes, did any member of the American Legion call out to say that he personally resented being called out?

A. Yes, several came to me and wanted to know why they were called out, on whose authority they were called out, and, furthermore they had no part in any strike movements or strikes and they didn't mind going out to help with fires and floods or anything like that, but that they didn't want to get mixed up in any strike controversy.

MR. DONALD WAKEFIELD SMITH: Do you know who called them out?

THE WITNESS: Paul Ryder informed me he had authority from somebody in the Legion, I don't know who, and he said it was all right to call out the Legion, and I identified him to the fire chief as having had authority to call the Legion out. Who he got it from I don't know.

MR. EDWIN S. SMITH: Just a moment on this appearance of the Legion. What about the fire signal that brings out the Legion? How often has that been resorted to, in your experience?

THE WITNESS: Oh, a couple of times. We have a wild river up there that goes on a rampage every once in a while and they come out and help rescue people and the like of that. I think we used them once or twice in the last couple of years.

Q. (By Mr. Hunt) On or about June 27th or 28th did you take on ten extra men on your police force?

A. I did.

Q. How were they selected?

A. Why, I asked the Civil Service Commission to certify me a list of eligible men. They did, and the list consisted of seven men. I took six of them, because the seventh one had formerly worked at the Republic Steel, and I didn't take him, and then I picked four other boys of neutral feelings. One was a school teacher on vacation, one worked on a printing press, and a couple other boys came off ice trucks.

Q. Then on Wednesday, June 30th, did Mr. Lincolnhaley and Mr. Ryder of the back-to-work movement, and Mr. E. W. Case of the Law and Order League see you regarding the registration of people who wanted to go back to work?

A. They did.

Q. What did they say to you?

MR. DAY: Same objection.

MR. EDWIN S. SMITH: Overruled.

MR. DAY: Exception.

A. They wanted to know why my officers had chased their group away and broke them up on the corner, that they were forming quite a group down town. There was an old bank building that was vacant that they intended to use to register fellows wanting to go back to work, and there was a group of pickets forming over on the other side of the street, and my officers dispersed both crowds and kept them all moving, and this committee came over to me and wanted to know what it was all about, and then I wanted to know what it was all about, and they said that they were registering the help that wanted to go back to work. I told them, "You have been saying you represent 2,300 people. What do you want to register again for?" And they said that they had lost that list, it had been taken away from them, and they didn't have it any more, and then there was some urgent call came to me at that time that I had to leave the office, so I ran out with Mr. Hardman and we left them there, and on the way out they said, "Can we register?" and I said I didn't care if they wanted to register, but I didn't think it was a good idea to be down on the ground floor especially, and later I learned they went up and started to register at the Chamber of Commerce office on the eighth floor of the Ohio Merchants Bank Building.

Q. When did the National Guard move in again at Massillon?

A. The night of July 1st.

Q. Where were they quartered?

A. Two companies quartered at the Pearl Street School overlooking the mill and viaduct, and the other two companies quartered in the Republic Steel office.

Q. The main office of the Republic Steel Company?

A. That is right.

Q. Did you say you had arranged to quarter the National Guard in the municipal lodging house?

A. I had.

Q. Did you know of this arrangement to quarter the two companies of the National Guard in the main office of the Republic Steel Corporation?

A. No, I didn't.

Q. When you say "quarter," you mean the men slept there as well as being there during the day?

A. That is right.

Q. All right.

Now, in the early morning before dawn of July 2d, did you issue orders to your department to escort some company guards and arms and ammunition into the Union Drawn Steel?

A. I did.

MR. DAY: Same objection.

MR. EDWIN S. SMITH: Overruled.

MR. DAY: Exception.

Q. (By Mr. Hunt) Who requested you to furnish a police escort to these guards?

A. Mr. Creighton of the Union Drawn Steel.

Q. What position has Mr. Creighton in the Union Drawn Steel?

A. General manager, I believe.

Q. And you agreed to furnish an escort?

A. Yes, sir.

Q. What did your escort consist of?

A. I sent two cruising cars, two men in a car, to identify them to let them through.

Q. This was the day after the National Guard arrived?

A. Yes, sir.

Q. How many company guards were escorted by your police?

A. About ten, supposed to be two carloads of them.

Q. Did any of these company guards give any members of your police force any ammunition?

A. They gave a few cans of gas to Patrolman Moore.

Q. To anybody else?

A. Not that I know of. Patrolman Moore was in one car and he got some gas. I don't know how much.

MR. EDWIN S. SMITH: What do you mean cans of gas? What kind?

THE WITNESS: Tear gas, nauseating gas, candles or jumpers, I don't know what they were, whether jumpers or candles.

BY MR. HUNT:

Q. Officer Moore accepted them?

A. He did.

Q. Did he bring them to the police department?

A. No, carried them in the cruiser then.

Q. What is a cruiser?

A. The City Police car.

Q. As far as you know, they remained in the City Police car?

A. That is right.

Q. Now, on July 4 did General William Moreland of the Ohio National Guard come to see you?

A. Yes, sir; he did.

Q. What did General Moreland say to you?

MR. DAY: Same objection.

MR. EDWIN S. SMITH: Overruled.

MR. DAY: Exception.

A. He said he wanted to have a meeting with some of the city officials shortly, and then he would submit plans to them as to what we could do to take over the situation after the troops left, that the troops weren't going to be there forever.

BY MR. HUNT:

Q. Did you accordingly arrange a meeting for General Moreland and the city officials?

A. I did, the next day.

Q. At this meeting, what did the General say?

A. He told us that the troops weren't going to be there forever, and that if we wanted the steel mill there we would have to be prepared to take over the situation when the troops left there.

Q. What did he mean when he said if you wanted the steel mill there?

MR. DAY: I don't think that is a proper question.

BY MR. HUNT:

Q. Did he amplify his remark?

A. He said the steel mill was the last one they opened, and if we didn't keep it opened it was up to us and we would lose it.

Q. Did General Moreland urge you to swear in a home guard?

A. He suggested deputizing a group of men from the plant to be known as home guard that would work on their own time, and would patrol their respective precincts after they had finished work.

Q. Would they receive pay for this?

A. Not from the city, no.

Q. From anybody else?

A. They were working in the plant.

Q. These men were to be recruited from the Republic Steel plant?

A. That is right.

Q. Were they to carry guns?

A. They were to be deputized as special officers and privileged to carry guns.

Q. Did you agree to do this?

A. No, I didn't.

MR. EDWIN S. SMITH: What about this phrase, "home guard"? Did you ever have occasion before to deputize people known as home guards, or were you

ever asked to deputize people known as home guards?

THE WITNESS: Along back some years ago during the war there was a company of home guards formed there that looked after the city some twenty-odd years ago, I guess, during the war, and they kind of looked after the city somewhat. That was before my time.

MR. EDWIN S. SMITH: Whose suggestion was it these people be called home guards; do you recall?

THE WITNESS: That was the phrase used by Marlin. I do not know where it originated from or anything.

BY MR. HUNT:

Q. Now, what did you say to the General regarding having some plan to handle this situation after the National Guard left?

A. I told him that we would have to put on fifty or sixty men or build the department up to fifty or sixty men if we wanted to keep up or cope with the situation at all, that there ought to be at least twenty men on each turn, and he suggested that that ought to be about right, but with fifty or sixty men at my command at all times, and with the assistance of the home guards we could control the city and we ought to get along pretty good.

Q. Did you agree to that at this time?

A. No, that was only a suggestion at that meeting, and we were supposed to think it over and give it some consideration and the meeting broke up.

Q. The next morning, July 6, were you present at Canton, at a meeting with the city officials of Canton, where the city officials of Canton and Massillon were present, held in the mayor's office?

A. I was.

Q. What was discussed at that meeting?

MR. DAY: Same objection.

MR. EDWIN S. SMITH: Objection overruled.

MR. DAY: Exception.

A. They wanted to deputize all the city police in Canton and Massillon so there would be no more boundaries or buck passing, so you could go over the county line.

BY MR. HUNT:

Q. You mean deputize in what way?

A. Give us a deputy sheriff's commission so we could go out in the county and would not be confined to maintaining law and order in the city any more.

Q. Did you support this proposition?

A. No, I didn't.

Q. Did you oppose it?

A. I was hired to take care of the City of Massillon and not the county, and I was being paid by the City of Massillon.

MR. DONALD WAKEFIELD SMITH: May I inquire if the troops were in Massillon?

THE WITNESS: Yes, they were.

MR. DONALD WAKEFIELD SMITH: Are you familiar with the laws of the State of Ohio regarding the calling of troops by the Governor?

THE WITNESS: Not clearly. Somewhat.

MR. DONALD WAKEFIELD SMITH: Is it true the laws of the State of Ohio provide where the Governor cal' out the troops to cover the situation, those troops are then under the technical command of the sheriff of the particular county?

THE WITNESS: That is right, I think.

MR. DONALD WAKEFIELD SMITH: That being the case, was that discussion brought up at the Canton meeting?

THE WITNESS: No.

MR. DONALD WAKEFIELD SMITH: It was not then mentioned the sheriff of the county would have jurisdiction over the National Guard in that county at all times?

THE WITNESS: I don't quite get your question.

MR. DONALD WAKEFIELD SMITH: The point I am making, you said they were trying to deputize the police as deputy sheriffs. If the sheriff of Stark County had technical command over the National Guard, both in Canton and in Massillon, why would it be necessary to deputize certain persons in Canton and Massillon to go out?

MR. DAY: I don't believe the troops are technically or actually under the command of the sheriff. They are sent to assist the sheriff.

MR. DONALD WAKEFIELD SMITH: Of course I was asking the witness whether or not they were. The witness says he thinks they were, and I was predicating my question on that statement by the witness.

THE WITNESS: The sheriff can request the assistance of the troops.

MR. DONALD WAKEFIELD SMITH: Yes.

THE WITNESS: And then, as I understand it, when they come in they give him any assistance he needs.

MR. DONALD WAKEFIELD SMITH: Can he order them to do certain things?

THE WITNESS: I don't know whether he can order them, but he can ask them generally to cooperate.

MR. DAY: That is about right.

BY MR. HUNT:

Q. Was it finally agreed that the Massillon and Canton police should be deputized and put on the sheriff's force?

A. No, not to be put on the sheriff's force but to have a deputy sheriff's commission so you can go out in the county and do work such as the sheriffs needed.

Q. That afternoon, the afternoon of July 6, did a Cap-

tain Harry Curley come into your office?

A. Yes, sir; he did.

Q. Who is Captain Harry Curley?

A. Oh, he is a retired contractor there, a former army man. He served in the Spanish-American War, and somewhat in the World War, I guess.

Q. What did Captain Curley say to you?

MR. DAY: I object.

MR. EDWIN S. SMITH: Overruled.

MR. DAY: Exception.

A. He asked me if he could be of any assistance to me, he understood I had my hands full, and he said he would be glad to help me any time he could.

BY MR. HUNT:

Q. Did he offer to help you pick any man to put on your police force?

A. He said if I thought I needed some men he could help me round up some.

Q. What did you say to him?

A. I told him if I needed men I would let him know.

Q. Later that afternoon did you receive a visit from two other men?

A. Yes, sir; I did.

Q. Who were they?

A. A fellow named Ralph Pepperer and Perry Angstedt.

Q. Who were Pepperer and Angstedt?

A. Ralph Pepperer was superintendent of Billet Shops of Republic Steel.

Q. Who is Angstedt?

A. Angstedt is chief accountant.

Q. Of what?

A. Republic Steel Corporation.

Q. What did he say to you?

MR. DAY: The same objection.

MR. EDWIN S. SMITH: Objection overruled.

MR. DAY: Exception.

A. They wanted to know if I was going to deputize the home guard and they brought a list of names up to me that I could pick some off of.

BY MR. HUNT:

Q. A list of names for home guards or special police?

A. Special police and home guards. They had the name for the special police, quite a list of them, and they also wanted to know if we wasn't going to appoint the home guards.

Q. Was this list I show to you, this list they gave you, was that a list of men in the Republic Steel plant?

A. Yes, they knew all the men and would recommend them.

Q. Is this the list they gave you?

A. That is right.

Q. Are these the badge numbers of the workers in the steel plant?

A. That is right.

MR. EDWIN S. SMITH: Do you intend to introduce that?

MR. HUNT: I will offer it in evidence.

MR. DAY: We take it under objection.

BY MR. HUNT:

Q. Did you agree to take on men from that list as home guards?

A. No, we didn't do anything definite right then. We kept the list and they talked about why not, because they said Canton was doing it, and I said I didn't think Canton was, so they called the office over in Canton.

Q. What office in Canton?

A. Republic Steel.

MR. DONALD WAKEFIELD SMITH: Do you object to the introduction of Exhibit 3?

MR. DAY: Yes. It goes into the record as

Board's Exhibit No. 3?

MR. DONALD WAKEFIELD SMITH: Yes, it may be so admitted.

(The document referred to was received in evidence and marked as "Board's Exhibit No. 3.")

BY MR. HUNT:

Q. You said you didn't believe they were doing it in Canton, then what happened?

A. They called the Canton office.

Q. The office of the Republic Steel Corporation?

A. Yes, sir.

Q. And after that telephone message was ended, what did Mr. Angstedt say to you?

MR. DAY: Same objection.

MR. EDWIN S. SMITH: Overruled.

MR. DAY: Exception.

A. Why he said that they informed him that the city solicitor of Canton was down in the plant then swearing them in.

BY MR. HUNT:

Q. You still refused to take these home guards?

A. That is right.

Q. Now, that evening, the evening of July 6, did you receive another visit from General Marlin of the National Guard?

A. I did.

Q. What did General Marlin say to you?

MR. DAY: Same objection.

MR. EDWIN S. SMITH: Overruled.

MR. DAY: Exception.

A. He wanted to know why we were backing down, and why we had not shown some signs of life in getting this group of men sworn in and getting ready to take over.

BY MR. HUNT:

Q. Where was this meeting with General Marlin?

A. In my office.

Q. You say he asked why you didn't show signs of life and take these men on? What men did he mean?

A. The mill men they certified to me.

Q. You mean for the home guard?

A. No, for the special police and home guard, both.

Q. What is the difference between special police and home guard?

A. Special police would be under my jurisdiction and on the ctiy payroll. The home guards would not.

Q. The home guards would be under your jurisdiction, would they not?

A. That is right, without compensation.

Q. That is the only major difference?

A. That is right.

MR. DONALD WAKEFIELD SMITH: This list, now, which was handed to you and which has been introduced as Board's Exhibit 3, was a list of home guards or special police?

THE WITNESS: Special police.

BY MR. HUNT:

Q. At the time they gave you this list, did Mr. Pepperer offer to give you a list of further names for home guards?

A. Yes, sir; he said there would be more.

Q. Now, getting back to General Marlin's visit to you on the evening of July 6, did you tell General Marlin you were trying to get neutral men to put on your police force?

A. I did, and told him it was slow picking.

Q. And did General Marlin say to you it was no time to look for neutral men?

MR. DAY: I object.

MR. DONALD WAKEFIELD SMITH: It is a proper question.

MR. DAY: Exception.

BY MR. HUNT:

Q. Did General Marlin say to you it was no time to

look for neutral men?

A. Yes, he said this is no time to pick up neutral men, and you have to be ready to take this situation over, and he said I demand you have some plan to certify to me by tomorrow noon so I can report to the Governor.

MR. DONALD WAKEFIELD SMITH: Had there been any disturbance whatsoever during all this time?

THE WITNESS: Not to amount to anything.

MR. DONALD WAKEFIELD SMITH: Was the disturbance of such character it could be handled by your force without the aid of the National Guard?

THE WITNESS: Before they tried to open the plant?

MR. DONALD WAKEFIELD SMITH: I mean before they tried to open the plant.

THE WITNESS: That is right.

MR. DONALD WAKEFIELD SMITH: Did General Marlin at any time describe to you the reason why the home guard would be necessary?

THE WITNESS: Because the troops would not be there forever, and the plant was open now and the men were going to work and we would have to be able to take over when the troops left.

BY MR. HUNT:

Q. This was the evening of July 6 when General Marlin told you it was no time for neutral men for your police force?

A. That is right.

Q. At that time were two companies of National Guards quartered in the main office of the Republic Steel Corporation?

A. Yes, sir.

Q. Did you have any talk at all with General Marlin? Did General Marlin speak to you about any conversation he had had with officials of the Republic Steel?

MR. DAY: Same objection for the record.

MR. EDWIN S. SMITH: Overruled.

MR. DAY: Exception.

BY MR. HUNT:

Q. Did you agree to have a plan by the following day at noon as he requested?

A. No, I don't think I did. We went out in a huff. He went his way and I went mine.

Q. The General was in a huff?

A. He certainly was.

MR. DAY: So was the Chief.

MR. HUNT: So was the Chief?

MR. DAY: So was the Chief.

MR. HUNT: I don't blame him.

MR. PATTON: You would not.

MR. EDWIN S. SMITH: Counsel, let us get on to business.

MR. DAY: All right.

BY MR. HUNT:

Q. On the morning of July 5th did a committee from the Law and Order League come to you to see you at your office?

A. No, they came to the mayor's office.

Q. Was the mayor there?

A. Yes, sir; he was.

Q. Who else was there?

A. I don't know. He came down after me and we took the city solicitor and went back upstairs to the mayor's office again.

Q. Was Mr. J. Lester in this group?

A. He was.

Q. Was Mr. Case in this group?

A. He was.

Q. Was Mr. Gordon Hesse in this group?

A. No.

Q. Was Mr. Ryder or Mr. Lincolnhaler in that group?

A. No, it was kind of a different group.

Q. Just the Law and Order Group?

A. The Law and Order Group. As I remember, there was Lester, Tom Poe, Captain of the Salvation Army, and Rev. Grant of the First—

Q. That is enough.

MR. DONALD WAKEFIELD SMITH: May I make one inquiry: To your knowledge, were there any striking employees of Republic Steel Company in that law and order group?

THE WITNESS: Not to my knowledge.

MR. DONALD WAKEFIELD SMITH: To your knowledge, were any members of the Republic Steel Company in that group?

THE WITNESS: No.

MR. DONALD WAKEFIELD SMITH: To your knowledge, were any members of the Republic Steel members of the law and order group?

THE WITNESS: Not that I know of.

BY MR. HUNT:

Q. What did this group say to you, the mayor, and city solicitor while you were all together?

MR. DAY: Same objection.

MR. EDWIN S. SMITH: Overruled.

MR. DAY: Exception.

A. They demanded we do something about this situation, and say why we had been passing the buck and why we refused to take the special police. They just climbed all over us and demanded some action be taken and threatened to impeach us, talked about getting rid of the mayor. They talked about getting rid of the city solicitor and everybody else, and they wanted something done, wanted some action.

BY MR. HUNT:

Q. Were you asked by some of the members why Republic Steel men had been discriminated against in adding

to your police force?

A. There was something said we could get plenty of men there, and I told them I didn't want those men, that if I was going to have any special police I wanted to have men on neutral sides that had no argument in the strike.

Q. What was the reply?

A. They said the steel mill was at stake, the City of Massillon was at stake, as far as industry goes, and we would lose the biggest of our industry.

Q. Did they ask you at this meeting if you would accept the assistance of Captain Curley in picking men to add to your police force?

A. Yes, they said Captain Curley knew where to get men and he could help pick the men.

Q. Did you finally agree to take on men right away?

A. No, it got pretty hot in there for the next hour or so.

Q. What do you mean, it got pretty hot?

A. Why, they were climbing on us to take on these men, and wanting a showdown and wanting to know why and fighting with us and asking all kinds of things, and saying all kinds of things against us, why we had done the way we did, and why we had not taken these things, and why we would not consent to it.

Q. Chief Switter, I have asked you so far merely a few questions about isolated meetings and conversations in the strike situation, but weren't you subject to constant pressure throughout the day and night, and spent many a sleepless night trying to handle the situation?

MR. DAY: Objection.

MR. EDWIN S. SMITH: Objection overruled.

MR. DAY: Exception.

A. I did. I worked, sixteen, eighteen, and twenty hours a day ever since the strike broke, and one time none of the department went home for four days and nights, four nights, only excepting a few hours sleep in the cruis-

ing car, and I slept on the office force, [floor] and the whole department the same way, even the new rookies.

Q. So you were pretty tired at the meeting of this Law and Order Committee on July 7th?

A. We were pretty well pounded down by that time.

Q. By whom?

A. The law and order and the back-to-work movement.

Q. And by the Republic Steel Corporation?

MR. DAY: We object to that.

MR. HUNT: When I speak of the Republic Steel Corporation, I mean the officials of the corporation.

MR. DAY: He didn't say that until you suggested it.

THE WITNESS: They laid off of us for the last couple of days.

MR. DONALD WAKEFIELD SMITH: By that you mean the officials of the corporation?

THE WITNESS: That is right.

BY MR. HUNT:

Q. What did you finally tell the group that you would do about putting on these extra police?

A. I told them that was up to the mayor and the chief executives of the city to make that decision, and they got after the old boy pretty hot and he kind of weakened for the time being and asked me again why we should do. Then they jumped on me and I told them I would give them the works, I would give them what they wanted, I would appoint the whole damn outfit, give them all the guns they wanted and let them go to it, it is coming, and God damn let them have it. They could not resist it any longer. They could not resist the pressure of law and order any longer.

Q. You could see what was coming?

A. That there was going to be a battle and bloodshed all around as soon as they put guns in those rookies' hands, and we had been fighting against bloodshed all the time.

MR. EDWIN S. SMITH: You mean by that, these people bringing pressure on you were inviting bloodshed?

THE WITNESS: I knew they was.

MR. EDWIN S. SMITH: Why did you think they wished to invite bloodshed?

THE WITNESS: Because you can't take rookies and go down around the picket lines with men inside the plant former employees working against the strikers.

MR. EDWIN S. SMITH: Didn't you raise arguments of that sort?

THE WITNESS: I kept raising and raising arguments, and kept passing the buck until at last I decided they wanted it and let them have it.

MR. EDWIN S. SMITH: What would be their reply to that kind of argument, you didn't want employees of the plant down there trying to preserve law and order?

THE WITNESS: How is that?

MR. EDWIN S. SMITH: I understood you said to them you thought it would be a bad thing to have people who were employees of the plant down there trying to preserve law and order as far as activities of the picket line were concerned. Isn't that what you said?

THE WITNESS: Yes.

MR. EDWIN S. SMITH: What was the answer of the law and order people to this argument?

THE WITNESS: That these men they had picked would be good, fair, square, level-headed fellows, and they would not be for one side or the other.

BY MR. HUNT:

Q. Did one of this committee at this time state to you in the other part of this meeting of July 7th—did one of them say there was only a one-sided strike?

MR. DAY: Same objection.

MR. EDWIN S. SMITH: Overruled.

MR. DAY: Exception.

A. If that was said, I don't know who said it any more.

BY MR. HUNT:

Q. So you weren't thinking trouble was going to come?

A. I certainly did.

MR. DONALD WAKEFIELD SMITH: Did any trouble come until that sort of thing was done?

THE WITNESS: No, there was no trouble for a couple of days.

MR. DONALD WAKEFIELD SMITH: In other words, if they had followed your advice, in your opinion, no trouble would have come?

THE WITNESS: That is right.

BY MR. HUNT:

Q. Well, when you agreed to put these men on did you receive an invitation to a luncheon from these gentlemen?

A. We did. They told us there would be a meeting of the local manufacturers at the Y. W. C. A. that noon, and we were requested to attend, which we did, the safety director, the mayor, city solicitor, and myself.

MR. DAY: Is this the 7th of July?

MR. HUNT: This is the 7th of July.

MR. DAY: Thank you.

BY MR. HUNT:

Q. What happened at that lunch?

MR. DAY: Same objection.

MR. DONALD WAKEFIELD SMITH: Overruled.

MR. DAY: Exception.

A. Captain Curley was there and probably fifteen or twenty representatives of the different manufacturing

plants.

MR. EDWIN S. SMITH: I am not clear about what you did about this offer of Captain Curley to pick your men?

THE WITNESS: That wasn't done until this noonday luncheon, and Captain Curley went to this noonday luncheon and he requested these different manufacturers that were there to sign up any able-bodied men that would be likely to make police officers, special police officers.

BY MR. HUNT:

Q. Was Mr. J. Lester there?

A. He was.

Q. Mr. J. Lester was an officer in the Law and Order League?

A. That is right.

Q. What did Mr. J. Lester say?

A. When Captain Curley asked him to send men from the different plants and to give him a rough idea of how many men could be sent, why, some of them asked they could only send two or three and J. Lester could not send any because he employs all women at his little rubber factory there.

Q. Was Carl Meyers, of the Republic Steel Corporation, at this luncheon?

A. He was.

Q. Did he make a speech?

A. Yes, sir; he lit on the mayor and the city solicitor and I with all fours.

Q. What did he say?

A. He said he had not thought a hell of a lot of us up until now, and he thought we was beginning to get on the right track now and go along and do something.

Q. Was there any time that Captain Curley said he wished the men to appear so he could pick them out?

A. He requested they all be there at 3 o'clock.

Q. Where, in the Y. M. C. A.?

A. At police headquarters.

Q. Did these men appear at police headquarters?

A. At 3 o'clock there was sixty or seventy men in the lobby.

Q. Did you recognize the faces of most of them?

A. I did.

Q. Were they Republic Steel employees, so far as you could tell?

A. A good many of them.

Q. Did Captain Curley then proceed to pick out these men?

A. We looked them over together and formed a line, and lined them up and asked that all under 30 years old step forward, which they did, and chased them away, and then picked out the ones that had large families and chased them away, and had about thirty or forty left.

Q. And of these thirty-odd men would you say that nearly all of them were Republic Steel employees?

A. The biggest part of them was.

Q. Did you make a list of the men on your force including the rookies and these men sworn in?

A. I did.

Q. These men were taken on as special police?

A. That is right.

Q. That is, they received compensation?

A. That is right.

Q. Is this a copy of the names of men on your police force including the rookies and ten men you mentioned you swore in from neutral sources and civil service and also these special force?

A. Yes, sir; that is a list.

MR. HUNT: I would like to offer this in evidence.

MR. DAY: We will take it under objection.

MR. EDWIN S. SMITH: It is admitted as Board's Exhibit No. 4.

(Thereupon, the list above referred to was received in evidence and marked as "Board's Exhibit No. 4.")

BY MR. HUNT:

Q. Now, was there any delay in swearing these men in?

A. There was a hold-up, the bondsman didn't show up and Curley had to contact Gordon Hesse and he told him to arrange for getting the bondsman to come over from Canton to bond the group of men.

MR. DAY: Same objection to that conversation.

MR. EDWIN S. SMITH: Overruled.

MR. DAY: Exception.

THE WITNESS: Our others had personal bonds by property owners locally.

BY MR. HUNT:

Q. To your knowledge, did Gordon Hesse arrange for bondsmen for these police?

A. As far as I know, that is who Captain Curley said he was talking to, wanted to speed them up so they could swear them in.

Q. Gordon Hesse is an official of the Republic Steel Corporation?

A. He is connected with it in some way.

Q. Did the National Guard leave Massillon on the 8th and 9th of July?

A. That is right.

Q. Were there any incidents of violence during those two days?

A. Only one little scrap.

Q. The next day was July 10th; was there any particular violence on Saturday?

A. No, we took it over on Saturday. We took it over on Friday, Friday the guards stood by, and we took it over

ourselves on Friday and the guards moved out Friday afternoon.

Q. How did you arrange for arming these new special policemen?

A. I bought thirty new sidearms for them and four dozen new nightsticks and that was all the equipment we bought.

Q. Did you equip them immediately as soon as you received these guns and nightsticks?

A. No, I was kind of slow doing that. I strung it out a couple of days, looking the different ones over before I turned arms over to them.

MR. EDWIN S. SMITH: These purchases were made out of the funds of the police department?

THE WITNESS: No, we just ordered them. There were no funds there. I don't know who is going to pay for them.

BY MR. HUNT:

Q. Had you furnished all these men with arms by Sunday?

A. I believe they all had arms by then.

Q. That is Sunday, July 11th?

A. That is right.

Q. On Sunday, July 11th, what did you do in the early afternoon around 2 o'clock?

A. Two o'clock, I taken Captain Curley and went down and changed shifts at the mill. The mill changed shifts at 3 o'clock and at that hour we would have forty-some men working on the police department. That is, we work twenty men on a shift and the shifts lap over an hour and a half, and when the new shift changes we would have forty men on.

Q. That is in all?

A. In all.

MR. EDWIN S. SMITH: What was Captain

Curley's position? Was he an adviser or deputized? What was his status?

THE WITNESS: He was just helping out. When I told him he should be sworn in he said oh, no, he didn't want to be sworn in; he would just help a few days until I could get going, and then he would step out of the picture.

BY MR. HUNT:

Q. He wasn't sworn in by you, as far as you know, and he wasn't sworn in by the sheriff of the county?

A. That is right.

Q. Go ahead.

A. We went down and changed shifts at the mill at 3 o'clock so the afternoon shift came in and the morning shift came out and the afternoon went along in fine shape, no trouble at all. So then, there was a large mass meeting of the C. I. O. at Sippo Park about a half a mile from the steel plant, and we went around there.

Q. About what time was that?

A. About 3 o'clock or a little after.

Q. Did you notice anything that indicated disorder?

A. No, they had quite a few people there, a loudspeaker going, a lot of traffic, a lot of cars parked around there, and we rode around and made several trips around there and went back around the mill and looked that over and went down to the Union Drawn Steel plant and checked that over, and saw the men were on their jobs and went back up and looked the mass meeting over again and by that time it was about 5 o'clock, time for supper, and Captain Curley says, "I will go see that the night shift changes all right." He said, "You better get away and get some rest and recreation. You have been at it too long. It is getting you down." I said, "That is fine, thanks old boy, if you will look after it I am gone." So I went home and cleaned up a bit and that evening I went away with my wife and some other couple and went out in the country twelve or

fourteen miles, had a few beers and lunch.

Q. What time did you leave Massillon with your wife and your friends?

A. It was approximately nine-thirty, because the boy friend we went with, he runs a gas station, and he had to close that up before we could get started, and he closed at 9 o'clock, and before we could get ready it was about nine-thirty.

Q. When did you return to Massillon?

A. One o'clock or a little after.

Q. Did you notice anything unusual in the streets when you came in?

A. Yes, sir; I noticed there was a lot of cars and a lot of people around the streets which was very unusual for that hour.

Q. What did you do?

A. Swung over by the City Hall where police headquarters is located and saw a thousand or fifteen hundred people storming around there and knew something had happened.

MR. DAY: I beg your pardon. What time did he say he got back?

MR. HUNT: About 1 o'clock.

MR. DAY: Thank you.

THE WITNESS: And I loaded my wife into a cruising car and had them take her home and went into headquarters to see what had happened, and began to get the different stories.

BY MR. HUNT:

Q. Were you present when the fighting started, when the firing started at strike headquarters between your police and the C. I. O. workers?

A. No, I wasn't.

Q. Did you get reports as when it started?

A. The trouble started between ten-thirty and eleven o'clock, as I got it.

Q. Were you informed by Captain Curley that he had raised the normal guard which was usually stationed about fifty feet in front of the strike headquarters, from six men to twenty men?

A. Yes, sir; I was informed of that.

Q. What reason did he give you for raising the number from six to twenty that night?

MR. DAY: Same objection.

MR. EDWIN S. SMITH: Overruled.

MR. DAY: Exception.

A. Because he got rumors from a source he didn't want to disclose that the pickets were going to crash the line and stop them from going into the mill at the 11 o'clock shift.

BY MR. HUNT:

Q. Had you heard any rumors before you left Massillon at 9:30?

A. No, I had not.

Q. And Captain Curley has not told you the source of these rumors he received at 9:30 when he determined to raise the source to twenty men?

A. That is right.

Q. Did Captain Curley tell you that when his ammunition ran out in the middle of the fighting that he sent to the Union Drawn Steel for additional ammunition for the police?

MR. DAY: I object to that.

MR. EDWIN S. SMITH: Objection overruled.

MR. DAY: Exception.

A. He did.

BY MR. HUNT:

Q. Did he say he got it?

A. Yes, sir.

Q. Did anyone else, any of your police officers tell you they had sent to the Union Drawn Steel for ammunition?

MR. DAY: Same objection.

MR. EDWIN S. SMITH: Overruled.

MR. DAY: Exception.

A. Patrolman Moore told me he used up everything we had and that he sent a fellow named Gray, I believe, who was a foreman in the Indure plant of the Republic Steel Company, and he sent him down for more gas shells.

Q. You say Gray is a foreman in the Indure plant?

A. That is right.

Q. And Moore sent him down for gas shells?

A. Yes, sir.

Q. That is in addition to Captain Curley?

A. Yes, sir.

MR. DONALD WAKEFIELD SMITH: You say they sent them down for more gas shells, as I recall, you said these special additional policemen were equipped only with side arms and nightsticks?

THE WITNESS: That is true.

MR. DONALD WAKEFIELD SMITH: No gas was issued for them?

THE WITNESS: No.

MR. DONALD WAKEFIELD SMITH: At the time you departed at 9:30 at night had any gas been issued to them?

THE WITNESS: No, the older heads in the cruising cars had the gas, and as I get it, the whole outfit was concentrated up in the strike zone some time that night and everything was taken up there, all our gas, gas guns, and machine guns and everything was concentrated up there, I guess.

BY MR. HUNT:

Q. Captain Curley had no authority from you whatsoever to raise the normal number of guards from six to twenty. Is that right?

A. No.

MR. DAY: I object.

MR. EDWIN S. SMITH: On that point, when

you go away, as you did that evening, you leave the police department in charge of someone. Who normally takes that position?

THE WITNESS: There is no promoted men in the department at all. We have no ranking officers. The older heads, I knew they could take care of themselves. Of course, Captain Curley came into the picture and he was more or less looking out for these new rookies, but the older heads were taking care of themselves in cruising cars. They were handling traffic, and so on.

MR. DONALD WAKEFIELD SMITH: Was it your understanding that Captain Curley, when you left, that he was to take charge of everybody in the place at the time?

THE WITNESS: No, nothing was said. Things were quiet and they were having this meeting and it didn't look like anything was going to happen. It didn't look like there was to be anything. It went off on the afternoon shift all right and we did not figure anything was going to happen that night.

MR. DONALD WAKEFIELD SMITH: Is it fair to say that you didn't regard this as a matter of delegation of authority to Captain Curley. You merely thought nothing would happen and he would be around there?

THE WITNESS: That is right, he was going to see the new rookies went on the post standing in front of C. I. O. headquarters and there was a viaduct and a couple of men to be posted under the other end of the viaduct, and a couple other roads supposed to be blocked so no traffic would come through. And that is the way it was supposed to be handled, and he was just going to see the men were on their posts and what he could do, but I don't know.

MR. DONALD WAKEFIELD SMITH: How

far is C. I. O. headquarters from the picket line?

THE WITNESS: Near a good city block, or a block and a half.

BY MR. HUNT:

Q. Now, of these twenty men, would you say seventeen or eighteen of these new rookies were taken on—

A. (Interposing) I guess there was only a couple of oldtimers around there.

Q. In other words, most of the men present were or had been immediately before their appointment employees of the Republic Steel Corporation, as far as you know?

A. That is right.

Q. Now, you told us that Captain Curley and Officer Moore, each one on his own account, sent for ammunition at the Union Drawn Steel Company during the fight?

A. That is right.

Q. So far as you know, is the Union Drawn Steel Company a subsidiary of Republic Steel Corporation?

A. That is right.

MR. HUNT: If the Board please, I think this would be a good time to recess.

MR. EDWIN S. SMITH: We will take a recess in a few moments, but I would like to ask the witness one or two questions.

MR. HUNT: All right sir.

MR. EDWIN S. SMITH: I would like to ask this question, about the steps you finally took to enlarge the police force in the way you did in response to your knowledge of the needs of the police force in regard to law and order as you saw it, or did you take those steps because of the pressure exerted by the various groups you have described?

THE WITNESS: On account of the pressure by these groups pressing for action. You could not fight it any longer.

MR. EDWIN S. SMITH: You had no reason to

believe if you had been left alone to discharge your duties you could not have preserved law and order in that situation?

THE WITNESS: Well, we was getting along O. K. up until then. The whole argument was about the mill. The breakdown of law and order in the city, not one of these new men were put out where these homes were supposed to have nad windows broken out of and men taken out and attacked. The whole outfit was concentrated in the strike zone.

MR. EDWIN S. SMITH: We will adjourn until 2 o'clock.

(Whereupon, at 12:50 o'clock p. m., the hearing was adjourned until 2 o'clock p. m. of the same day.)

After Recess

Thereupon, at 2 o'clock p. m., the hearing was resumed pursuant to recess.

MR. EDWIN S. SMITH: Are you ready to proceed, Mr. Hunt?

MR. HUNT: I have a few more questions of Chief Switter.

STANLEY W. SWITTER

resumed the witness stand and, having been previously sworn, testified on behalf of the National Labor Relations Board as follows:

Direct Examination (Resumed)

BY MR. HUNT:

Q. Chief Switter, in your opinion, on basis of all your experience throughout this strike situation in Massillon, do you think you could have handled the situation so that

there would have been no bloodshed, as did happen on the night of July 11th, if you had not been subjected to the pressure of individuals such as Carl Meyers, Mr. J. Lester, Mr. Paul Ryder, and others representing their respective organizations?

MR. DAY: I object.

MR. EDWIN S. SMITH: The objection is overruled.

MR. DAY: An exception, please.

A. I do.

BY MR. HUNT:

Q. Was that pressure brought on you continuously almost from the very beginning of the strike?

A. It was.

MR. DAY: The same objection.

MR. EDWIN S. SMITH: Objection overruled.

MR. DAY: An exception, please.

BY MR. HUNT:

Q. You have testified only to the high lights of that pressure here?

MR. DAY: I object.

MR. EDWIN S. SMITH: Objection overruled.

A. That is right.

BY MR. HUNT:

Q. And it took not only your ordinary working hours but many hours besides that to deal with the situation?

MR. DAY: I object.

MR. EDWIN S. SMITH: Objection overruled.

A. It did.

BY MR. HUNT:

Q. When you finally consented at the meeting of July 7th to the putting on of the men you realized that the result of that might be the massacre that occurred on the evening of July 11th?

MR. DAY: I object. If the Board please, I think there ought to be some limit to the leading questions

that can be asked. Those last four questions are very leading.

MR. HUNT: I shall rephrase the question.

MR. EDWIN S. SMITH: The witness already testified to the fact that in his judgment that violence was likely to follow as a result of putting into effect the measures urged upon him to take, which he did take. That being the case, I don't know that it is necessary.

MR. HUNT: I merely wanted to make clear the Chief's own position throughout the entire strike situation and his desire to avoid trouble.

BY MR. HUNT:

Q. Chief Switter, was your purpose and were your efforts directed toward maintaining peace and preventing bloodshed?

A. Yes, sir.

Q. For that purpose you tried to put men on your police force who were neutral?

A. That is right.

Q. And you think if you had carried out your own policies without the pressure you would have succeeded?

MR. DAY: Let the record show that the Respondent objects to all of those questions; that every one of them suggests the answer. While we realize this Board does not enforce the rules applied to courts, yet we think there ought to be some restriction on the right to ask those kinds of questions, as the answer to every one is suggested.

MR. EDWIN S. SMITH: It seems to me the questions are in the nature of questions directed as a summation of the witness' point of view as expressed in answer to some specific questions. I see no objection to them upon that ground.

MR. DAY: An exception, please.

MR. HUNT: That is all I have of this witness.

Cross Examination

BY MR. DAY:

Q. Chief Switter, this morning you answered a great many questions and told who were present upon certain days and certain dates and at certain times. How were you able to bear all of that in your memory?

A. By going over it with my attorney.

Q. Who is your attorney?

A. Mr. Hunt.

Q. He is your attorney?

A. He is the man who is handling the case.

Q. How long have you been in Washington?

A. Since last Friday.

Q. And this is Wednesday?

A. Yes.

Q. Friday, Saturday, Sunday, Monday, and Tuesday before the hearing started?

A. Yes, sir.

Q. And you have been in conference with Mr. Hunt during a large part of that time?

A. Yes.

Q. And with whom else?

MR. HUNT: I object.

MR. DAY: It is proper cross-examination.

MR. HUNT: I object. I see nothing material to that question.

MR. DAY: It is material when the witness goes on the stand to show with whom he has conferred, and to whom he has talked. I don't know of any case where that has ever been ruled out in any ordinary practice.

MR. HUNT: I submit it is one of the oldest questions there is to ask somebody whom did he talk to, or did he talk to his attorney. Of course he has. To ask with whom else he has talked I think is immaterial.

MR. DONALD WAKEFIELD SMITH: I think

it is as much a privileged communication what this witness said to Mr. Hunt as it is a privileged communication with regard to your clients and what did they say to you.

MR. DAY: I am not asking what they said.

MR. DONALD WAKEFIELD SMITH: You are asking whom he talked to.

MR. DAY: But it has never been the rule, if the Board please. Whom he talked to is not privileged.

MR. EDWIN S. SMITH: I see no objection to your asking the question. Go ahead.

THE WITNESS: What is the question?

BY MR. DAY:

Q. I will ask this question, Mr. Switter: You have been here ever since Friday?

A. That is right.

Q. And you say you have been in conference with your attorney, Mr. Hunt?

A. That is right.

Q. What other lawyers have you been talking to?

A. No others.

Q. Did you talk to Mr. Pressman?

A. No.

Q. Have you talked to him at all?

A. No.

Q. Has he been present at any conference?

A. No.

Q. Did you know any of the lawyers of the C. I. O.?

A. No.

Q. Have you seen any of them?

A. No.

Q. Who else was present at these talks besides Mr. Hunt?

MR. DONALD WAKEFIELD SMITH: He said nobody.

BY MR. DAY:

Q. Do you mean you and Mr. Hunt met alone every time? Do you mean your meeting was with Mr. Hunt alone every time?

A. And Mr. Hardman and Mr. Crier.

Q. He is the city solicitor—that is, Mr. Hardman is the city solicitor? A. Yes, sir.

Q. And Mr. Crier is the Mayor of Massillon; is that right?

A. Yes, sir.

Q. Where have you been stopping since you have been here?

MR. HUNT: I object to that. I will state to the Board that these witnesses have all been subject to sufficient pressure and should not be subjected to further pressure from Republic Steel Corporation or anybody else.

MR. DAY: There has been no pressure on them by the Republic Steel Corporation, and I resent that statement.

MR. HUNT: I object to their divulging their whereabouts at this time.

MR. EDWIN S. SMITH: Objection sustained.

MR. DAY: I want to say that no pressure has been put on this witness by Republic or anybody representing Republic.

BY MR. DAY:

Q. Who has been Chief of Police of Massillon since you have left?

A. Robert E. Smith has been appointed acting chief.

Q. And Mr. Lysic has been—Who is law director?

A. Robert Hoffman, assistant prosecutor.

Q. How much longer do you expect to stay here?

MR. HUNT: I object to that.

MR. EDWIN S. SMITH: The objection is sustained.

MR. DAY: An exception, please.

BY MR. DAY:

Q. How long have you been a member of the force?

A. Since 1930.

Q. In what capacity were you at first?

A. Five years as a patrolman.

Q. You became chief when?

A. September 1, 1935.

Q. Under the present mayor?

A. No, sir.

Q. Who was the mayor?

A. Mr. Loomback.

Q. And then you kept on and stayed over as chief of police under the present mayor?

A. I have a civil service appointment for life.

Q. How old are you?

A. Thirty-five.

Q. You worked in the Central Steel Company how long?

A. Off and on since 1919 up to 1930, when I went on the police force, outside of a few years when I was running around the country.

Q. During that time you worked at Central Steel it had guards and policemen taking care of its property, did it not?

A. Yes, sir.

Q. Can you give the Board some idea, first, as to the number of plants Republic has in Massillon?

A. The number of plants?

Q. Yes; the number of manufacturing plants or factories?

A. Two—Republic Steel Corporation and Union Drawn Steel.

Q. Do you know how many men are employed at the Republic plant under normal business?

A. I have heard figures anywhere from 2,200 up to 3,600.

Q. And Union Drawn employs how many men?

A. Four hundred to four hundred and fifty.

Q. Can you give the Board some idea as to the amount of space that is covered—first, by the Republic plant over there, and how extensive and how large it is?

A. In acres?

Q. In any way you want to put it.

A. No; I couldn't say.

Q. It is quite a large plant, isn't it?

A. It is.

Q. And is Union Drawn a fairly good sized plant also?

A. It is a smaller plant down in the hole there.

May I have that map, please?

I think it may be of value to the Board if we were to use this map that I have here.

May I step up to the bench?

MR. EDWIN S. SMITH: Do you want this put in as an exhibit?

MR. DAY: Yes, sir; we will put it in as an exhibit.

Q. (By Mr. Day) Chief Switter, will you please look at this map? I am not so very familiar with it, but I think this is north (indicating)?

A. Yes, sir.

Q. And this is south?

A. Yes, sir.

Q. And that would be east (indicating)?

A. Yes, sir.

Q. And this would be west?

A. That is right.

Q. And here is Erie Street?

A. That is right.

Q. And there is the viaduct?

A. Yes, sir.

Q. And this Oberlin Avenue, and this is Cleveland Avenue?

A. Yes, sir.

Q. Now, will you please tell the Board where the Republic plants are located?

A. Down through here (indicating) is the Republic Steel plant.

Q. That is where it is marked "sheet division"?

A. Yes. That is just at the beginning of the viaduct.

Q. At the end of this viaduct here (indicating)?

A. Yes. No. 1 gate leads right in here to the sheet mill (indicating).

Q. There is the No. 1 gate right there (indicating)?

A. Yes, sir.

Q. And No. 2 gate is right there; is that right?

A. Yes, right across from the main office.

Q. Where is the Union Drawn? Is that shown on there?

A. No. That is on Third Street, Southwest.

Q. That does not appear on this map?

A. No, sir.

Q. Where is the C. I. O. headquarters?

A. Right here in Cleveland Avenue.

Q. Right here, marked C. I. O.?

A. Yes, it is just back from the main office.

Q. In other words, the C. I. O. is right here (indicating), marked "C. I. O."?

A. Yes, sir.

MR. DAY: And the Board will note the relative distance there to the entrance, Nos. 1 and 2.

Q. (By Mr. Day) How far is all of this from the City Hall?

A. About a mile and a half.

Q. (By Mr. Edwin S. Smith) What are these figures

here? Do they represent feet?

MR. DAY: The scale is what?

THE WITNESS: One inch to one hundred feet. This down here is your road leading to your blast furnace and coke ovens.

Q. (By Mr. Day) Will you show the members of the Board the county line?

A. The county lines comes up here along the river and starts in through the center of the viaduct, and Oberlin Road right straight through to Duncan Street here. This is a short piece of Duncan. It goes out along Pennoc Avenue and then here (indicating).

Q. This is the district office of the Corporation, isn't it?

A. Yes, sir.

Q. That is inside the city?

A. Everything north of this corporation line is in the city (indicating).

Q. And the office would be in the city?

A. That is right.

Q. And the sheet division plant itself would be in the county, would it not?

A. That is right.

MR. DAY: Unless the Board wants to see that, I will mark it and leave it.

Q. (By Mr. Donald Wakefield Smith) I would like to ask this question since looking at the map: Then the only section of the Republic Steel which is within the city limits is that office?

A. That is right—outside of the Union Drawn Steel.

Q. Did you, as Chief of Police of Massillon, have any jurisdiction over any of this territory here other than the part which I believe you say is north of the county line, which includes the office?

A. That is right. Everything north of this county line belongs to the sheriff. That is the county.

Q. Will you please show us on the map where the picketing occurred?

A. All along this gate, starting at the end of the bridge, No. 1 gate, all along the Republic fence here up to No. 2 gate, clear out here on Oberlin Road, and clean out to Ninth Street, down through to the blast furnace.

Q. Then, as you have indicated, is it correct to say that the picketing was not within the city limits but was outside of the jurisdiction of the city?

A. There were some pickets along the front of the main office.

Q. Were most of the pickets along the front of the main office?

A. There were possibly at times ten, fifteen, or twenty in front of the main office.

Q. Where was the access to the plant?

A. No. 2 gate here.

Q. No 2 gate?

A. Or the No. 1 gate.

Q. The main accesses to the plant were not within the city limits?

A. Absolutely not.

Q. (By Mr. Day) If a man lived over in this part of Massillon (indicating on map) would he have to come down Erie Street and then across the viaduct?

A. That is right.

Q. And the viaduct is within the city?

A. Half of it is.

Q. That is, down to here (indicating on map) it is within the city?

A. Yes, sir.

Q. It is half within the city?

A. Yes, sir.

Q. And half out?

A. Yes, sir. The county line comes up here (indicating on map). This is the sewage disposal plant belonging

to the city down here (indicating), and then the county line comes up here to the river.

Q. Is this (indicating) the C. I. O. headquarters in the city?

A. Yes, sir. That is known as Columbia Heights.

Q. A great many workers who live over in Columbia Heights would go to work down Cleveland Street and then go in to entrance No. 2, wouldn't they?

A. Very few. The main road, as used, would be coming in Duncan Street or in Sixth Street.

Q. Duncan Street is in the city?

A. Yes.

Q. And Cleveland Street is within the city from there on?

A. It is from right here.

Q. You mean from the back of the office?

A. That dotted line is the county line. This is Cleveland Avenue right here (indicating) coming into Cleveland Road.

Q. That is all in the city, then, is it?

A. Yes. That abuts right into Oberlin Road.

Q. Cleveland Avenue and North Oberlin Avenue are in the city limits?

A. That is right.

Q. And this territory up here in and about the C. I. O. headquarters is within the city?

A. All of it.

MR. EDWIN S. SMITH: Do you want that marked?

MR. DAY: Yes. May I have it marked as Respondent's Exhibit No. 1?

MR. EDWIN S. SMITH: It will be admitted as Respondent's Exhibit No. 1, if there is no objection.

MR. HUNT: No objection.

MR. EDWIN S. SMITH: It is admitted.

(The map thereupon referred to was received in evidence and marked as "Respondent's Exhibit No. 1.")

Q. (By Mr. Day) How many members of the police force did you have before there was any talk of a strike or anything of the kind?

A. There were eighteen of us altogether.

Q. That is, day and night and everything?

A. That is right.

Q What were the shifts?

A. Eight hours.

Q. Three shifts of eight hours each?

A. Yes.

Q. That would be only six to a shift; is that right?

A. That is right.

Q. Did some stay in the office—that is, did some of each shift stay in the office and some go outside?

A. Yes, sir. There were five of us used in the office—myself, my identification man, and three desk men.

Q. That is, five out of the eighteen?

A. That is right.

Q. That leaves thirteen.

A. Thirteen patrolmen.

Q. Thirteen patrolmen in three shifts would be four in one shift, four in another shift, and five on the third shift?

A. That is right.

Q. You did not mean to say that that would be enough to deal with serious trouble out there at the mills, did you?

A. No, sir.

Q. And you do not?

A. No, sir.

Q. In other words, if serious trouble occurred at the mills you did not have enough policemen under your command to deal with it, did you?

A. That is right.

Q. And you realized that from the time the strike trouble started, did you not?

A. That is right.

Q. What effort did you, yourself, make to get more policemen?

A. How is that. I didn't understand you.

Q. What effort did you, yourself, make to get more policemen?

A. I talked to the City Council.

Q. Can you give us the date of that?

A. It was along in June some time.

Q. You were very good on dates this morning. Let us get some important dates. The troops came on what date?

A. July 1.

Q. And the men went back to work on what date?

A. July 2.

Q. And the big trouble you were telling us about was on Sunday, July—what? Was it July 11th?

A. The 11th. Do you mean the battle?

Q. Yes. That was Sunday, July 11th, wasn't it?

A. That is right.

Q. And the troops that came in on July 1st left Massillon on what date?

A. About the 8th and 9th.

Q. The 8th and 9th?

A. Yes, sir.

Q. That would be on Thursday and Friday?

A. That is right.

Q. The mills in the Massillon district were shut down for a very considerable time, were they not?

A. They were shut down when they worked up the hot metal after the 25th of May. Within about a week they were completely down, and they were down until they opened up on July 2d.

Q. Union Drawn was down, and the sheet mill was down?

A. Everything was down.

Q. And, of course, it was quieter for you while the mills were down than it was when the men started to go to work, was it?

MR. HUNT: I object.

MR. DAY: What is the objection now?

MR. HUNT: It is a leading question.

MR. DAY: But this is cross-examination. I have a right to ask leading questions.

MR. EDWIN S. SMITH: Go ahead. You may ask a leading question.

Q. (By Mr. Day) Do you understand the question?

A. What is the question?

Q. I say, as chief of police it was a quieter period for you up to the time the men started to go back to work than it was after they started to go back to work?

A. Well, it wasn't very quiet when these pow-wows and meetings were going on. I was running around sixteen and eighteen hours a day lots of days.

Q. Then it wasn't so quiet, was it?

A. The city was but it wasn't for me.

Q. Was it quiet out around the mill?

A. Yes.

Q. You testified sometimes there were four days when you never went home at all?

A. That is right.

Q. And you slept on the floor of the office?

A. That is right.

Q. And you were working sixteen to eighteen hours a day?

A. That is right.

Q. When was that? Was that before the troops came in or after they came in?

A. A few days previous to the troops coming into

Massillon. It was when the troops came into Stark County. They had us truck out load blocks on every road leading into the city.

Q. While the mills were shut down they had pickets out at Union Drawn, didn't they?

A. Yes.

Q. And while the mills were shut down, out at the sheet mill, didn't they?

A. Yes.

Q. You frequently saw those pickets, didn't you?

A. Practically every day.

Q. And they were armed with baseball bats and clubs and stones, were they not?

A. They carried clubs for quite some time.

Q. They were real clubs, weren't they?

A. Some of them were.

Q. And baseball bats?

A. Most anything.

Q. Baseball bats and billiard cues?

A. There were all kinds of clubs.

Q. Any gas pipe?

A. No, I didn't see any gas pipe.

Q. Did you ever take up any of those clubs and weapons?

A. No, not until the latter part of it. They were taken up by the troops, most of them.

Q. And brought into your office?

A. No, I don't know what became of them.

Q. Did you see them after the troops took them up?

A. No, I did not.

Q. Did you ever see any collection of bats and clubs and sticks that were taken from the strikers by the police or the troops at any time?

A. Yes, the morning that the troops returned after the battle they gathered up some that I think eventually landed in my office.

Q. Where are they?

A. They are still there, I guess.

Q. And they consist of what?

A. All kinds of clubs, sticks, and so on.

Q. (By Mr. Donald Wakefield Smith) May I ask a question right there? Who brought them to your office?

A. One of my officers and a couple of the National Guard, when they picked up a bunch of fellows who were at Union Drawn Mill. They used to have a little trailer down there, and when they searched that trailer they found several sticks and clubs hid under the cushions and what not of the trailer.

Q. (By Mr. Day) Which one of your officers brought in those clubs with the National Guardsmen?

A. I believe his name was John Pattit.

Q. Did you see stones out on the picket line when you would go out along there?

A. They used to have the letters "C. I. O." made there. They used to have letters "C. I. O." made of stones and whitewashed.

Q. Didn't you see stones they had gathered up, too?

A. There were stones lying along the road.

Q. (By Mr. Edwin S. Smith) It is natural for stones to be along the road at that point?

A. No, it is a paved road along there, and then off the edge of the paved road is dirt, where the stones were.

Q. (By Mr. Day) The stones were right where the pickets were, were they not?

A. That is right.

Q. And they had the stones and the clubs and the sticks there, didn't they?

A. That is right.

Q. Chief, when you went around there and saw these various weapons you knew or believed they were there to be used by the pickets, if necessary, did you not?

A. In my own mind I knew what they was for. I had

been around picket lines before.

Q. And that was before the troops came, wasn't it?

A. That is right.

Q. And that was before the men started to go back to work, isn't it?

A. That is right.

Q. And that was while Union Drawn and the Sheet Mill were both shut down, wasn't it?

A. Yes, sir.

Q. Did you notice also that pickets in large numbers were congregating around the various picket posts and gates and entrances to the mills there?

A. I used to count them.

Q. What was the result of your count?

A. Sometimes along the line from the bridge down of the blast furnace it would be as high as 150 or 160.

Q. If I might step up here to the bench again, I wish you would just show the members of the Board on this map where they had picket lines along the blast furnace as high as 150 or 160?

A. Starting at No. 1 gate here at the end of the viaduct, running across to Oberlin Road, clean out to Ninth Street, Southwest, and from Ninth Street, Southwest, down here about another mile or so where the blast furnace and coke oven entrance is.

Q. A solid line of pickets?

A. No. They was grouped here and there.

Q. I did not mean they were standing shoulder to shoulder; but they did string along over that distance, didn't they?

A. They were stretched out, I should say, over three or four miles.

Q. (By Mr. Donald Wakefield Smith) There were 150 or 160 of them over three or four miles?

A. Yes, sir.

Q. One hundred and fifty pickets?

A. That is right.

Q. (By Mr. Day) Did you ever see how many congregated around C. I. O. Hall down here (indicating on map)?

A. At various times when they would be having meetings or a change of shifts there would be different numbers of men there.

Q. How many men did you see there at one time, or approximately how many?

A. Over a couple of hundred.

Q. A couple of hundred at C. I. O. headquarters?

A. At change of shift, or something like that.

Q. (By Mr. Donald Wakefield Smith) Was that the average number that was there?

A. I would say so.

Q. (By Mr. Edwin S. Smith) These persons at C. I. O. headquarters were not pickets, were they?

A. Yes, they were pickets changing shifts.

Q. Changing shifts of the pickets?

A. They would change on the shifts, the same as if they were working in the mill.

Q. (By Mr. Day) While you are up here, Chief Switter, directing your attention back to Erie Street right at the beginning of the viaduct, was there a restaurant or saloon up here somewheres?

A. Yes, right at the corner of the bridge here (indicating).

Q. That was a restaurant and saloon?

A. Yes.

Q. I will put "R. & S." here (indicating).

A. There was another one across the street, but that folded up in the meantime.

Q. What did you find as to whether or not that was a frequent meeting place or hang-out, if I might use that expression for that C. I. O.?

A. No, that wasn't a hang-out for them particularly.

It was a hang-out for all mill men.

Q. There is a filling station over here, isn't there (indicating)?

A. That is right.

Q. And a filling station over here (indicating)?

A. That is right.

Q. (By Mr. Donald Wakefield Smith) Just before leaving that, extending over this territory of three or four miles you said there were 150 witnesses?

MR. DAY: Pickets, not witnesses. They may all be witnesses, at that.

Q. (By Mr. Donald Wakefield Smith) Will you please look at this map and state whether or not any of those 150 pickets were within the city limits of the City of Massillon?

A. They used to be sometimes as high as ten or fifteen or twenty along from Cleveland Avenue past the main office and down under this overhead bridge. The Pennsylvania Railroad crosses under there.

Q. Where you indicated there they were not within the city limits of Massillon? Is that right?

A. That is right.

Q. (By Mr. Day) Some were in the city and some were in the county ? That is right, isn't it, Chief?

A. Yes.

Q. You had some disturbances there before the troops came in? You were telling this morning about some men who go into some kind of a fracas. What was that you were telling us about? Was that some guard down at the Republic?

A. One of the pickets and a couple of the guards tangled down at the Union Drawn Mill.

Q. When was that? You are so good about dates will you please just tell us that date?

A. That was along the first part of June. I would say it was a little over a week after the strike.

Q. Who were the strikers involved in that episode?

A. That was a whole bunch, part of the Union Drawn Steel and part of the Republic Steel.

Q. Strikers or guards?

A. What do you mean?

Q. I mean, were they strikers at the Union Drawn and strikers at the Republic Steel that were involved in that fracas?

A. Yes.

Q. And they had some trouble with the guards, did they?

A. That is right.

Q. What did they do with the guard?

A. They disarmed him, I heard.

Q. Anything else?

A. No.

Q. Did they beat him up?

A. No.

Q. Was a man named Morton involved in that?

A. Yes.

Q. You know Morton, do you?

A. Yes.

Q. Joe Morton?

A. Yes.

Q. What has he got to do with the C. I. O.?

A. He is president of the local lodge.

Q. He is under indictment for obstructing the United States mails in the federal courts, isn't he?

A. That is right.

MR. HUNT: I object to that. I don't know that that is within the knowledge of the witness.

MR. DAY: He testified to many things this morning not within his personal knowledge.

MR. EDWIN S. SMITH: The witness has answered the question. Let it stand.

Q. (By Mr. Day) Who is head of the other C. I. O.

lodge down there?

A. A fellow named Kenneth Stead, I believe.

Q. He is also under indictment for obstructing the United States mails, isn't he?

MR. HUNT: I object upon the same grounds.

MR. EDWIN S. SMITH: He may answer.

Q. (By Mr. Day) He is, is he not?

A. Yes, sir.

Q. Did you ever go down to C. I. O. headquarters one time with a man named Chester Adams and a C. I. O. man named Joe Morton?

A. Chester Adams, you say?

Q. Yes, Chester Adams.

A. What was it about?

Q. Do you remember a man named Chester Adams drove off the Republic property onto Oberlin Road and he was waved on by a number of men and stopped, and then you, Chief of Police Switter, stepped onto the running board on the lefthand side of his car, and Joe Morton, president of the C. I. O. and New Deal Lodge, jumped on Adams' running board on the righthand side of his car?

MR. DONALD WAKEFIELD SMITH: Are you doing that for the purpose of refreshing his recollection instead of testifying? I presume that is the purpose of telling him that.

MR. DAY: I am cross-examining the witness.

MR. DONALD WAKEFIELD SMITH: Yes, I know.

MR. DAY: I can ask him anything I want to on cross examination.

MR. DONALD WAKEFIELD SMITH: Consistent with correctness.

MR. DAY: I can read him statement after statement out of any paper I have under any rule of cross examination known to the rule.

MR. EDWIN S. SMITH: All right, go ahead.

MR. DAY: And, if I may make the suggestion, I can refresh the recollection of the witness on cross examination.

MR. DONALD WAKEFIELD SMITH: That is true.

MR. DAY: Then I have a right to press him further after he says he doesn't remember, to see whether he really does or does not. I am not bound by his answer.

MR. EDWIN S. SMITH: Well, ask him the question.

MR. DAY: I have.

MR. EDWIN S. SMITH: Let him answer.

MR. DAY: I wish he would. I am asking him to answer.

THE WITNESS: I don't recall the incident.

Q. (By Mr. Day) You say you did not jump on the running board of a car driven by a man named Adams? You jumped on one running board and Joe Morton, president of the C. I. O. New Deal Lodge of Massillon, jumped on the other, and that the car was driven down to C. I. O. headquarters and you went along down with them, with Morton, to C. I. O. headquarters? Will you say you did not do it?

A. I do not recall the man's name or the incident you are talking about.

Q. Regardless of the name, did you get on the car or ride on the car—that is, get on the car of any man with Joe Morton and go down to C. I. O. headquarters?

A. I was down to C. I. O. headquarters a number of times.

Q. I am not asking you about that. I am speaking about a specific time.

A. Yes, I went down to C. I. O. headquarters with numerous men they had taken out of the mill.

Q. Taken out of the mill for what purpose?

A. They was quitting, coming out of the mill after they had been in there for a week or so.

Q. Men who had been working in the mill?

A. That is right.

Q. And you took them down to C. I. O. headquarters?

A. I went along with them to see what it was all about.

Q. To see what it was all about?

A. Yes.

Q. Why did you take them down there to see what it was all about?

A. I went along with them.

Q. In whose car?

A. Any car that happened to be going down there.

Q. Was it your car sometimes?

A. No, I never took anybody down in my own car.

Q. Whose car was it?

A. You are trying to get at the times when I escorted the men out of the mill.

Q. And took them down to C. I. O. headquarters.

A. I went along with them. I didn't take them down there.

Q. You went down to see what it was all about?

A. They were requested to go to C. I. O. headquarters—working men.

Q. Who requested them to go to C. I. O. headquarters?

A. Morton and Thomas and employee members of the C. I. O.

Q. Morton was the head of the New Deal Lodge of the C. I. O.?

A. That is right.

Q. And Thomas was the head of the pickets?

A. He was some officer there.

Q. He was captain of the pickets the night of the riot, or one of them, wasn't he?

A. I don't know.

Q. And you went at Morton's request and took men who had been working in Republic Mills down to C. I. O. headquarters? Is that right?

A. At the request of Raleigh Francke. He agreed to it.

Q. Every time?

A. Yes.

Q. Did you pick up those men outside of the city or inside the city?

A. I used to go down to the county to get them.

Q. You used to go down to the county to get them?

A. Yes.

Q. At that time you were acting Chief of Police of Massillon? Is that right?

A. Yes.

Q. Have you any other explanation to give of your conduct in that regard?

A. I was doing all I could to keep peace and order.

Q. And your idea of keeping peace and order was to take a man who had been working in Republic Steel, at the suggestion, let us say, of Joe Morton, and take him down to C. I. O. headquarters, you being the Chief of Police of Massillon? Is that right?

A. We went into the Republic Steel Corporation and talked to Raleigh Francke about the condition of getting the men out of the mill.

Q. Did you get any men out of the mill you took to their own homes?

A. I didn't have to.

Q. Did you?

A. No.

Q. Then, all of the men you helped get out of the mill you took to C. I. O. headquarters?

A. No.

MR. EDWIN S. SMITH: It seems to me it is

immaterial where he took the men. I don't get the point of the question.

MR. DAY: If he took them to C. I. O. headquarters it shows interest on his part in the C. I. O. cause, it seems to me, and shows some species or degree of allegiance to the C. I. O.

MR. HUNT: The witness already testified on every occasion he had the permission of Raleigh France, who apparently was in charge of the main office of Republic Steel. Perhaps Counsel wants to bring up Mr. Raleigh Francke.

MR. EDWIN S. SMITH: Perhaps you can bring out who those men were.

MR. DAY: Yes.

Q. (By Mr. Day) Who were they?

A. They were laborers in the mill. The first day that the mill requested me to take this group of men out through the picket line they were afraid to come out. I made arrangements to meet them and escort them through the picket lines at the request of the mill corporation—that is, at the request of the steel corporation.

Q. Where did you take them?

A. We brought some thirty-five or forty out that were salaried men and company men that the C. I. O. was not interested in, and there were three truckdrivers coming out that were eligible for C. I. O. membership and one of them was not. The C. I. O. wanted to talk to any members that were eligible to belong to their organization.

Q. Yes; go ahead.

A. And they requested that they come to C. I. O. headquarters and said they wanted to talk to them. They also asked me to go along so that there would be assurances that there was no harm or no trouble coming to them.

Q. How many of those men?

A. Three of them.

Q. Do you remember who they were?

A. Butch Holt was one.

Q. Who is another one? Who else?

A I think another was Shaneybrook. I think there were three truckdrivers of the steel company.

Q. Did Joe Morton go along with you on any of those expeditions?

A. He was at C. I. O. hall. I don't know whether he went along or not.

Q. What happened to these men after they got to the hall?

A. They asked for the conditions in the mill. One of them was asked if he was not a member of the C. I O., and he said yes.

Q. Did you stay there and listen?

A. I stayed there with them all of the time.

Q. About how long did you stay with them?

A. I would say we were talking about a half hour.

Q. Then where did you go?

A. I went home.

Q. Did you understand there was a condition if you took the men out of the mill they were to go to C. I. O. headquarters?

A. No.

Q. Was there any condition imposed by the pickets if they let you get a man out of the mill he would go to C. I. O. headquarters, or you would take him to C. I. O. headquarters?

A. They wanted to talk to them, yes.

Q. In other words, if a man got out of the mill or came out of the mill under protection, the C. I. O. wanted to talk to him? Is that right?

A. If he was a laborer or in their class.

Q. And then you saw to it the C. I. O. got the chance to get to them?

A. I saw no harm came to any of them.

Q. Outside of that did you see those men went to the C. I. O.?

A. No. They was all willing and they all knew before they came out of the mill they was wanted to be talked to at the C. I. O. headquarters.

Q. How do you know that?

A. That was the arrangement that was made.

Q. With the C. I. O.?

A. Yes; with Raleigh Francke and Joe Morton.

Q. (By Mr. Edwin S. Smith) Who was Raleigh Francke?

A. He is the man in charge there of the operations in Massillon, or was in charge of the plant.

Q. For the Republic Company?

A. That is right.

Q. (By Mr. Day) Do you mean Mr. Raleigh Francke of the Republic Company, was a party to an arrangement that any man who left the work in the Republic plant there, and was taken out, or should go to or give a chance to the C. I. O. to talk to him? Is that right?

A. He wasn't very enthused over it.

Q. I don't imagine he should be.

A. But he agreed it was the best thing to do.

Q. (By Mr. Edwin S. Smith) Let me establish the status of these men a little better. Were these people, to your knowledge, C. I. O. sympathizers within the plant and decided they wanted to leave the plant and quit their work at the plant? Is that who they were?

A. No, they were closing down the plant. The company was getting out.

Q. I still don't quite understand the situation.

A. The work was finished and they was closing down the plant and getting all of the men out of the plant and evacuating the plant.

Q. What was to be feared as regards these people going through the picket line?

A. A lot of them that went into the mill and stayed in thought they was going to be beat up and hurt if they came out of the mill.

Q. (By Mr. Day) By whom?

A. By the pickets.

Q. With the clubs and stones and baseball bats you saw there? Is that right?

A. That is right.

Q. Because they thought if they got out of the mill they might be beaten up by these clubs and stones and baseball bats, what arrangement did you make with the C. I. O. about their coming out?

A. If they came out no harm would come to any of them.

Q. But the C. I. O. would get a chance to talk to them? Is that right?

A. That is right.

Q. At C. I. O. hall?

A. That is right.

Q. And you took them there?

A. No, sir; I didn't take them; they went of their own free will and I went along.

Q. And you went along?

A. Yes.

Q. You were just then acting chief of police?

A. Yes.

Q. And some part of it was outside of the city?

A. Yes, sir.

Q. I want to ask you some questions about this Law and Order League there in Massillon. The head of that was a man named J. G. Lester?

A. Yes, sir.

Q. His first name is Jay, isn't it?

A. Jonathan, or something like that.

Q. Isn't his first name Jay?

A. No, it is Jonathan. He is known as Jay. They all call him Jay Lester.

Q. What is his business?

A. He has a little rubber factory there.

Q. He has no connection with Republic Steel Corporation that you know anything about, has he?

A. Not that I know anything about.

Q. Who else is on that Law and Order League Committee, or who else is in that Law and Order League in Massillon? I mean prominent in it. I do not mean all of the members.

A. Mr. Lanham, who distributes Erie Chevrolet.

Q. And no connection with Republic Steel, so far as you know?

A. No.

Q. Who else? Name some. Name a couple more.

A. Tom Poe.

Q. What is his business?

A. Well driller.

Q. And he has no connection with Republic, so far as you know?

A. No.

Q. Name another one.

A. Reverend Hacks.

Q. He is a minister of what church?

A. I couldn't tell you.

Q. He has no connection with Republic Steel, so far as you know?

A. That is right.

Q. That Law and Order League, through a committee, met with you numerous times, didn't they?

A. Yes.

Q. They were afraid of trouble; that is right?

A. Yes.

Q. They were afraid of trouble out at the mills, were they not?

A. They seemed to be.

Q. And they were afraid of trouble with the C. I. O.? And the pickets would be mixed in it, weren't they?

A. They seemed to be afraid something was going to happen.

Q. And they wanted more police protection, didn't they?

A. They wanted the mills opened, I guess.

Q. Didn't they want more police protection also?

A. Well, I had been arguing for more police for the last couple of years.

Q. Right on your remark about wanting the mills opened, there were a great many men in Massillon who wanted to go back to work, were there not?

A. There seemed to be.

Q. You know that, don't you, Chief?

A. I know—I have no way of knowing outside of these groups that I met. I couldn't meet many of them.

Q. Don't you know, as a matter of fact, of your own knowledge and observation as chief of police and who was out on the job there every day, or nearly every day, that after that strike started there were many men who had formerly worked for Republic Steel who wanted to go back to work? Isn't that right?

A. I met some occasionally, yes.

Q. When the mills opened up a great many of them went back to work, didn't they?

A. That is right.

Q. Do you know how many?

A. I heard up to about 2,000.

Q. In the sheet mill?

A. No, altogether.

Q. That is, 2,000 in the sheet mill and Union Drawn?

A. That is right.

Q. Do you know how many men they had to work there?

A. I had all of the figures from 3,200 to 3,600.

Q. When they opened up under the protection of the troops there were 2,000 men who wanted to go back to work? Is that right? Or they went back to work?

A. Evidently.

Q. Those were men who lived in Massillon, weren't they?

A. Massillon and all around there.

Q. And they were men who had families in Massillon, weren't they?

A. Yes.

Q. And they owned homes in Massillon, didn't they?

A. Yes.

Q. And, so far as you know, a great many of them were good citizens in Massillon?

A. Yes.

Q. And you know many of them personally?

A. Yes.

Q. And know them to be hard working and high grade men?

A. Yes.

Q. And, for all you know, law-abiding men?

A. Yes, sir.

Q. Did the Law and Order League want to do something to get those men back to work?

A. Yes, sir.

Q. Did the Law and Order League tell you they had the right to work if they wanted to work?

A. Not right at that time; until the Governor declared they had a right to work.

Q. But the Law and Order League, you say, wanted to get the men back to work?

A. Yes.

Q. And they wanted you to furnish more adequate police protection so that they could go back to work?

A. That is right.

Q. And you say the leading men in that Law and Order League were not connected with Republic, so far as you know?

A. That is right.

Q. They were good citizens—Jay Lester and Tom Poe and others were upright, law-abiding citizens of Massillon, weren't they?

A. I don't know. They caused me an awful lot of trouble.

Q. They might have caused you a lot of trouble and still be up-right citizens?

A. It depends on how you put it.

Q. You would not say they were not upright citizens because they caused you trouble?

A. They would not say nothing about the men.

Q. How many times do you think they came to see you?

A. There was somebody in my office practically every day.

Q. And they had how many mass meetings or luncheon meetings?

A. They had a couple or two or three luncheons.

Q. They were right out in the open, weren't they?

A. Sometimes.

Q. The luncheon meetings were right out in the open? There was nothing secret about them?

A. There was a group up in the dining room, the private dining room.

Q. It was all written up in the newspapers as to what happened?

A. No, I don't think so, not all of it.

Q. And speeches were made?

A. Yes.

Q. And you made a speech?

A. Yes.

Q. And the mayor made a speech?

A. I don't believe he did.

Q. Did Mr. Hardman make any speeches?

A. I don't believe so.

Q. The object of all that was to get more adequate protection and more policemen?

A. Yes. They were talking about police.

Q. When did you go before the Council yourself to ask for additional policemen?

A. It was some time in June.

Q. Was that at a regular meeting of the Council?

A. Yes, sir.

Q. What did you say to the Council? What did you ask them to give you?

A. I asked them to give me some more men, that I was using up a man on each shift down to the Republic Steel office, my contact man who kept me informed as to what was going on on the picket line, and I told them that left me with four men uptown on one shift and three on the other, and three on another.

Q. And the Council would not give you any more men?

A. That is right.

Q. I want you to tell us something more of the proposition of raising the $8,000 to equip policemen, or something of the kind; that was suggested at the meeting of the Law and Order League, or the Chamber of Commerce?

A. Yes.

Q. Which was it, was it the Chamber of Commerce or the Law and Order League?

A. Both combined.

Q. Did they combine at the meeting?

A. Yes, they were some of the members of the Chamber of Commerce and Law and Order League using the Chamber of Commerce office.

Q. Who was the head of the Chamber of Commerce in Massillon?

A. I am acquainted with Mr. Case.

Q. He is the secretary?

A. Yes.

Q. What is his business outside of being secretary of the Chamber of Commerce? Has he any other job or is that a full time job?

A. A whole-time job.

Q. He is a good citizen?

A. Yes.

Q. He is of up-right character?

A. Yes.

Q. He was interested in this movement?

A. Yes.

Q. I could not understand from your testimony this morning whether they got the $8,000 or got any of it. Did they get it?

A. They never got it.

Q. They never raised the $8,000?

A. They only got a few hundred dollars of it.

Q. Did you ever agree to accept the $8,000?

A. We agreed to, the mayor did, and to appoint the police but not to send them to the picket line.

Q. Major Curley—or is it Major Curley or Captain Curley?

A. Captain Curley.

Q. How long have you known him?

A. Quite a few years.

Q. He is in the contracting business?

A. No, he is retired.

Q. You said this morning he used to be an officer in the regular army, didn't you?

A. He served in the Spanish-American War and a little bit in the World War, I guess.

Q. He is a good citizen over there in Massillon, so far as you know?

A. So far as I know, he is all right.

Q. Did you get into touch with him first or did he get into touch with you?

A. He came to my office first.

Q. You did not call him first?

A. No.

Q. You did not talk to him first?

A. No.

Q. But you did know he was a man who had a good military record?

A. He should have. He was on pension as a captain or something.

Q. And had been in both wars—that is, in the Spanish-American War and in the World War?

A. That is right.

Q. You knew Mr. Case, as far as you knew, had no connection with Republic, did he?

A. No.

Q. And, so far as you know, Captain Curley had no connection with Republic, did he?

A. No.

Q. You say there was great pressure brought on you to have the new policemen sworn in or deputized?

A. That is right.

Q. And you say you finally gave in to that pressure?

A. That is right.

Q. And you said this afternoon in answer to a question by Mr. Hunt that you think you could have handled the situation if it had not been for the pressure. Is that right?

A. Yes, sir.

Q. That all depended on what happened out there, isn't it?

A. How is that?

Q. That would have depended on what happened out there, wouldn't it?

A. That is right.

Q. And when you told Mr. Hunt you could handle this situation if it had not been for this pressure, of course in fairness you wish to be understood as saying you could handle the situation you had in mind, omitting what might happen out there? Is that right?

A. That is right.

Q. These last meetings which were held in the mayor's office when there was extra pressure brought to bear upon you, or extra persuasion that you have additional policemen, were attended by members of the Law and Order League?

A. Yes, sir.

Q. And the Chamber of Commerce?

A. Mr. Case, of the Chamber of Commerce, was there.

Q. And I think you told Mr. Hunt this morning, or I so understood you, that Mr. Meyers wasn't there at those last meetings? Is that right?

A. He was there at the afternoon luncheon.

Q. When was that?

A. That was about June 7, I guess.

Q. There were meetings held after that when he was not present; is that right?

A. No. That day we had had the meeting in the mayor's office and then the luncheon at noon and then when all of the factories were requested to send down men, that was the last meeting.

Q. Was Mr. Meyers there at that meeting?

A. Yes.

Q. Many of these talks you had with Mr. Meyers was in the Hotel Onesto in Canton, weren't they?

A. Yes.

Q. Wasn't that largely due to the fact that Mr. Meyers himself had been injured?

A. He had been injured and that is where their headquarters were for the Canton-Massillon district.

Q. They had some rooms up in the Onesto Hotel?

A. Yes.

Q. (By Mr. Edwin S. Smith) Just a minute, please. When you say that is where their headquarters were, whom do you mean by "their"?

A. Republic Steel Corporation had temporary offices up there.

Q. (By Mr. Day) In the Hotel Onesto?

A. Yes.

Q. At that time the offices of the company were being picketed over in Massillon, were they not?

A. Yes, sir.

Q. And the pickets were around the Massillon office?

A. Yes, sir.

Q. If I might get up here near the bench again, the Massillon office is right over here, isn't it (indicating on map)?

A. Yes, sir.

Q. And that was picketed?

A. Yes, sir.

Q. And Mr. Meyers and those other men could not get in there if they wanted to, unless they ran the picket line?

A. That is right.

Q. What was the situation as to Union Drawn?

A. Just the same.

Q. That was picketed, too?

A. Yes, sir.

Q. Was it your judgment, Chief, that they had a temporary headquarters over at the Hotel Onesto in Canton because they could not get into their regular place? Is that right?

A. It was the same way in Canton, yes.

Q. And it was the same way down in Canton, wasn't it?

A. Yes.

Q. They had the Berger Works picketed, and the Tin Plate picketed, and Republic had to have an office somewhere, so they went up to the Hotel Onesto?

A. Yes.

Q. And you had various talks with Carl Meyers upon the subject of what you would be able to do to cope with any trouble if it sprung up there in Massillon?

A. Yes.

Q. Was Mr. Francke, of the sheriff's office, there, sometimes?

MR. DAY: I say to the Board now, as I said this morning, as to my familiarity, that I was born in Canton and lived there for many, many years, and I know these people down there. I know one member of the Board felt that I had been down there sleuthing around.

MR. DONALD WAKEFIELD SMITH: I didn't indicate that.

Q. (By Mr. Day) Was Mr. Francke there at any time?

A. Just once.

Q. Without going through the thing over and over again, those discussions you had with Mr. Carl Meyers, and perhaps the sheriff and perhaps Mr. Francke, deputy sheriff, were along the line of what the law enforcement officers would be able to do to cope with the situation if violence started up? Wasn't that it?

A. Yes.

Q. You said something this morning about getting some ammunition out at the Brookside Club, or somewheres?

A. Yes, sir.

Q. Was it ammunition or tear gas, or what?

A. Three shotguns, six combination shells, three gas guns, and about ninety gas projectiles.

Q. What did you do with them?

A. Took them back to headquarters.

Q. Did you lock them up?

A. Yes.

Q. Were they used in the Saturday night and Sunday night fight?

A. Yes.

Q. You accepted them, did you?

A. Yes.

Q. As chief of police?

A. Yes.

Q. You thought you might need them? Is that right?

A. Yes. We could stand a lot of equipment there.

Q. Didn't you think when you accepted those arms that you needed them?

A. I didn't know whether we would need them for this particular case or not, but I knew we needed such equipment.

Q. Do you mean to say you would accept them to be used at any future time?

A. We could use them at any time.

Q. About what date was that? What was the date when you accepted the arms and ammunition?

A. I think it was June 9.

Q. June 9th? Is that right?

A. I am pretty sure it was.

Q. That was long before the men went back to work and long before the troops came in, wasn't it?

A. Yes.

Q. You had some talk with Mr. Carl Meyers about getting some food into the men in one of the Massillon plants, didn't you?

A. Yes, sir.

Q. Just where were those men?

A. They were in the Republic Steel division.

Q. Coke ovens?

A. Yes.

Q. Had they been there all of the time?

A. Right.

Q. Mr. Carl Meyers wanted you to give him some protection to get the food in to those men? Is that right?

A. That is right.

Q. Did he tell you they needed the food?

A. He said they would. They had enough to last them four or five days.

Q. And after that they would not have any?

A. That is right.

Q. Do you know how many men were in there without food, or did Mr. Meyers tell you how many were in there without food?

A. About twenty—sixteen guards and four maintenance men.

Q. He told you there were about twenty in there in the Republic plant with food for four or five days?

A. Yes.

Q. And that they wouldn't have any?

A. Yes.

Q. And he wanted police protection to get the food in there to those men?

A. He wanted Mr. Francke and I to get the food in there.

Q. And you went to the C. I. O. and talked to the C. I. O. about it, did you?

A. Yes, sir.

Q. And the C. I. O. objected to it, didn't they?

A. They said they had maintenance men who could do that work who could have passes to come in and out.

Q. And you knew those men in there who had only four or five days' food, if they tried to go out the picket line would be liable to get into serious trouble, didn't you?

A. That is the way the picket lines are.

Q. You knew that, didn't you?

A. Yes, sir.

A. That is the way picket lines are.

Q. Well, you knew that, did you not?

A. Yes.

Q. And, notwithstanding that fact, you went to C. I. O. and asked them whether they would agree that the men might have food taken in, is that right?

A. That's right.

Q. Now, you did that to keep peace, I suppose, is that right?

A. The only thing to do.

Q. Well, did you care what happened to the men in there?

A. They could come out.

Q. Well, if they came out they would be stoned by the pickets, wouldn't they?

A. No.

Q. Well, what would happen to them if they came out and ran the picket line?

A. I took every man out of that plant that wanted to come out without any trouble at all.

Q. Oh, you were willing to take them out, is that right?

A. If they wanted to come out.

Q. But you were not willing to take food in to them?

A. That's right.

Q. Because C. I. O. would not agree to it, is that right?

A. I wasn't taking food to nobody.

Q. My question was you were not willing to take food in to them because the C. I. O. would not agree to that, is that right?

A. I wasn't starting no trouble down there by putting food into the plant.

Q. Well, if C. I. O. had agreed to it, you would have taken the food in, would you not?

A. No, they could have shipped it in any way they wanted to.

Q. If C. I. O. had agreed to it?

A. That's right.

Q. What happened to those men, do you know?

A. I don't know; I guess they got food in there some way.

Q. And you did not help them?

A. No, sir.

Q. You had helped to take men over to C. I. O. after they got out of the Republic plant, but you would not help get food in to men who in four or five days might be starving, in that plant, would you?

A. No, it wasn't like that.

Q. Well, why was that? Why was that?

MR. DONALD WAKEFIELD SMITH: Did you do that because in your opinion it would preserve the peace better to leave the thing in a condition of status quo?

THE WITNESS: That's right.

BY MR. DAY:

Q. Well, there was not any general disturbance at that time, was there?

A. What do you mean?

Q. Well, there was not any general rioting around at that time, was there?

A. No, everything was going pretty smooth.

Q. Were you willing to have men starve in there to preserve the status quo?

A. They didn't have to starve in there.

Q. Well, answer my question. My question is were you willing at that time to have them starve in there to preserve what the member of the Board has said was the status quo?

A. No.

Q. Do you understand the question?

A. No.

MR. DAY: Read the question.

(The question was read by the Reporter as follows:

"Q. Well, answer my question. My question is were you willing at that time to have them starve in there to preserve what the member of the Board has said was the status quo?")

A. They didn't have to starve in there; I knew they wasn't going to starve.

BY MR. DAY:

Q. Oh, you knew they were not?

A. Yes.

Q. All right. Now, there was a matter brought up to you about getting some records out of the office of the Republic Steel Company, was there not?

A. Yes, sir.

Q. Who took that up with you?

A. Carl Meyers.

Q. And Carl Meyers said that there was some records in the office of Republic Steel Company that Republic Steel Company wanted to get out, is that right?

A. That's right.

Q. Did he say what records they were, or did he describe them to any extent at all?

A. No, he didn't.

Q. Did he say that the insurance company had something to do with the records?

A. No.

Q. Well, now, you talked about a Mr. Marshall this morning. I understood you said he had something to do with an insurance company, is that right?

A. Mr. Marshall has the relief policies, or something; he handles the relief in the mill.

Q. Well, was he mixed up with the records at all?

A. Yes, he handles all mill relief, when anybody gets

sick, or dies, or something like that.

Q. Now, the records, did you understand that they were in this office, too, that is shown on this map here (referring to large map)?

A. Them records that Marshall was concerned about belonged in the office at all times; they was supposed to be left there.

Q. And the records that Mr. Carl Meyers wanted, were they in that office, too?

A. No, they were taken out when the office was evacuated.

Q. When the Republic folks wanted you to give them police protection to get their corporate records out, did you go to C. I. O. again?

A. No.

Q. Did you take that up with C. I. O.?

A. No, sir.

Q. Who did you take that up with?

A. Nobody.

Q. You did not help them get the records out, did you?

A. Yes, sir.

Q. Did you get the records out?

A. Yes, sir.

Q. Well, I did not understand you to tell that to Mr. Hunt this morning.

A. He—

Q. You went in there—oh, you took some C. I. O. men there with you, did you not, that was it?

A. No, sir.

Q. Did you not say this morning that you wanted to take some C. I. O. men into that office with you?

A. No.

Q. Well, what did you do? Tell us all about it, so that if I have it wrong you may set me right, and tell us what the right of it is.

A. When they wanted to evacuate the office and move

everybody out of there, and the records, they was afraid that the pickets would bother them.

Q. Yes.

A. They might get the records, the company records away from them.

Q. Yes.

A. And I told them to load them in their cars, and that they would all come out of the office when they was going to evacuate it without any trouble at all, which they did; but then, after the office was evacuated and Carl Meyers turned—not Carl Meyers—but Raleigh Franks turned the keys to the main office over to me, and says, "That's your building now; look out for it."

Q. All right.

A. I—then there was some records, the insurance records that stayed in there, that—that Marshall would have to refer to from one time to another, him and this insurance man, and that's when Marshall wanted to go in the office; then he wanted to get these records or look up these records from time to time. The C. I. O. didn't want him to go in without—

Q. How do you know the C. I. O. didn't want them to?

A. Because I was over at the office of the C. I. O. when Marshall was there asking him.

Q. And C. I. O. did not want to have that happen, is that right?

A. They didn't want Marshall to go in there unless they went along with him.

Q. What did you say to that?

A. I asked Marshall what he thought about it, and he said he did not know—guess it was all right—so, as far as I knew, he agreed to do it, and he left; but then—I don't know what happened after that, I guess he never went in.

Q. Now, you have testified this morning about some talks with the National Guardsmen. You said you talked to General Marlin. Is that right?

A. That's right.

Q. When did you first talk to him,—or about when?

A. Along the latter part of June, I think, I talked to him on the telephone when he arrived in Canton with his troops, and made Canton his headquarters.

Q. Did the troops arrive at Canton before they went over to Massillon?

A. That's right.

Q. They were there first?

A. Yes, sir.

Q. Was Canton opened up before Massillon?

A. That's right.

MR. DONALD WAKEFIELD SMITH: I do not believe there has been a statement in the record yet as to how far Canton is from Massillon actually.

MR. DAY: Eight miles.

MR. DONALD WAKEFIELD SMITH: Eight miles?

MR. DAY: Is that right, Chief?

THE WITNESS: That's right.

MR. DONALD WAKEFIELD SMITH: That is right?

MR. DAY: Yes.

BY MR. DAY:

Q. You had some talk with General Marlin about some extra policemen, didn't you?

A. Yes, sir.

Q. Will you give us the date of that again, Chief?

A. July 4.

Q. July 4, and that took place where?

A. In my office.

Q. Was anybody else there beside you and the General?

A. One of his men; I don't know what his rating was.

Q. What did the General say to you upon the subject

of having more troops, or more policemen, I mean—not more troops.

A. He wanted to know—he wanted to meet the steel officials who would have the authority to put on additional police, and wanted me to arrange for a meeting the next day.

Q. Were the troops in Massillon at that time when you talked to General Marlin?

A. Yes.

Q. In a personal conference?

A. Yes.

Q. Was the time coming there when the troops were going to be taken out?

A. Yes, sir.

Q. And he was talking to you about what provision should be made by way of police protection?

A. Yes.

Q. Or law enforcing protection after the troops went out, is that right?

A. That is right.

Q. Had the men gone back to work then?

A. Yes, sir.

Q. Now, of course, when the men went back to work, that made the situation more acute, more serious out there at the mills, did it not?

A. No, everything was going pretty good.

Q. I know, but when the men—in your mind, at least, there was more reason to apprehend danger when the men were actually in there working, and strikers on the outside, than when the mills were down and there were strikers on the outside, that is right? Is that right?

A. Yes, the tension was greater whenever the shifts went in.

Q. And he wanted to have you get some additional policemen, is that right?

A. That is right.

Q. Now, General Marlin was in command of the National Guard there, as far as you know?

A. Yes, sir.

Q. How many times did you talk to him on that subject?

A. About three times.

Q. Now, when did you get the additional policemen? What date?

A. Along about the eighth and ninth, I think, something like that.

Q. And they were—

A. Seventh, eighth and ninth, along there.

Q. And you say some of them were working for the Republic Steel Company, is that right?

A. Yes, sir.

Q. Were they working for Republic at that time?

A. Yes, sir.

Q. Did you know those men?

A. Yes, most of them; I knew a lot of them.

Q. Well, were most of them Massillon men?

A. I think they were, I think there was one from Navarre.

Q. One from Navarre and the rest of them from Massillon?

A. A couple from out in the country.

Q. There were some from Massillon, some from out in the country, and some from Navarre, a little town near Massillon?

A. Yes.

Q. And you knew most of those men?

A. Yes.

Q. And there w policemen that were sworn in that came in from other shops, is that right?

A. Yes, a few of them.

Q. Did you let go all of the men under 30, and let go the men that had large families, and take the rest of them, is that right?

A. That's right.

Q. And they were sworn in as special policemen?

A. Yes, sir, that's right.

Q. Who swore them in, the City Law Director?

A. Solicitor.

Q. The City Solicitor?

A. Yes, sir.

Q. So you had about how many policemen all together, then?

A. I think that made about 68.

Q. Sixty-eight all together?

A. Something like that.

Q. And Major Curley—or Captain Curley—he did not have any official designation, did he?

A. That's right.

Q. He was not sworn in as anything?

A. That's right.

Q. But he was assisting you?

A. That's right.

Q. And about how many days before the riot, or the fight on Saturday night,—Sunday night, of the eleventh,—was it that you swore these men in and Curley came into the picture?

A. It was about four or five days.

Q. On the Sunday of the fight, July 11th, there had been a big mass meeting of C. I. O. at Oak Knoll Park, had there not?

A. Sunday afternoon, yes.

Q. Can you show the members of the Board, if it is on here, where Oak Knoll Park is (referring to large map), or about where it is?

A. (Indicating) It would be right out in here.

Q. Out in here (indicating)?

A. Yes.

Q. Well, would that be in the city or in the county?

A. City.

Q. That is in the city?

A. Uh-huh.

Q. Yes.

MR. DONALD WAKEFIELD SMITH: What was that date again?

MR. DAY: That is the Sunday, the 11th of July.

MR. DONALD WAKEFIELD SMITH: I see.

MR. DAY: The night of the fight.

Q. (By Mr. Day) Did they ask you for a permit to hold that meeting?

A. Yes, they asked me if they could have one.

Q. And you granted it?

A. Yes, I said they could have one.

Q. How many other permits had you granted to hold large C. I. O. meetings?

A. One other one.

Q. Where was that held?

A. Sippo Park.

Q. And when?

A. About July 6th or 7th, I think.

Q. Sippo Park is outside of the city, is it not?

A. No, sir, it is on the Lincoln Highway.

Q. That is in the city?

A. On the east side coming in from Canton.

Q. That is in the city, too?

A. Yes, sir.

MR. EDWIN S. SMITH: Excuse me. Was that a peaceful meeting?

THE WITNESS: Yes, sir.

MR. EDWIN S. SMITH: No disturbances reported?

THE WITNESS: That's right.

MR. DONALD WAKEFIELD SMITH: Have you ever denied any permits to any other organization such as the Law and Order League to hold meetings within the city limits?

THE WITNESS: A few weeks before that, on a Saturday afternoon, the Back-to-Work Movement was

going to hold a meeting. That was the Saturday following the big meeting at the City Hall, when that crowd gathered around there, and on the advice of two National Guardsmen, two captains, the three of us requested the Back-to-Work Committee to cancel that meeting that they had scheduled for that Saturday afternoon in the park.

MR. DONALD WAKEFIELD SMITH: I see. Then the only reason you denied a permit there was because you feared bloodshed by reason of that meeting?

THE WITNESS: Things were pretty hot and we knew that there might be trouble, and the National Guardsmen and myself, we tried to talk these fellows into it, to just call their meeting off. Just after talking to them, they thought maybe it was the best thing to do, and the Committee got busy and cancelled the meeting.

Q. (By Mr. Day) Now, let me ask you a few questions about that.

You permitted the C. I. O. to have a meeting at Sippo Park on about July 6th?

A. Yes, sir.

Q. And you permitted a meeting at Oak Knoll Park on Sunday, July 11th, that is right, is it not?

A. Yes.

Q. And you just said to one of the members of the Board that you and some of the National Guardsmen persuaded the Back-to-Work Movement not to have a meeting for fear of bloodshed?

A. That's right.

Q. Well, did you think the bloodshed would take place at the meeting of the Back-to-Work people?

A. I thought there was a possibility there of plenty of trouble.

Q. Then you thought there was a possibility that if the Back-to-Work Movement people had a meeting, the C.

I. O. would come in and there would be a fight and there would be blood shed, is that right?

A. That's right.

MR. DONALD WAKEFIELD SMITH: Did you have any fear when the C. I. O. had a meeting that the Back-to-Work persons would come in and make a raid upon the C. I. O. meeting?

THE WITNESS: The troops were there then, I didn't care; they had enough men to handle the situation.

Q. (By Mr. Day) When was it that the Back-to-Work Movement wanted to have a meeting?

A. The day following the ruckus, or about the 25th of June.

Q. Yes. Now, did you hear any of the speakers who spoke at the Oak Knoll meeting on the afternoon of Sunday, July 11th?

A. No, sir.

Q. How large a meeting did they have?

A. Oh, I don't know; from riding around the park and looking in, it looked like they probably had four or five hundred in there.

Q. Who spoke, do you know?

A. I don't know.

Q. Were any reports carried to you as to anything that was said at that meeting?

A. There was some stories, yes.

Q. Were any stories carried to you that everybody at the meeting was to be on the picket line at 11 o'clock that night when the shift came out of the mill?

A. No, sir.

Q. Anything like that?

A. No, sir.

Q. Was any report carried to you that the men who were at that meeting should go by themselves and as many more as they could get, and be on the job at the mill that night, at eleven o'clock?

A. No, sir.

Q. Now you went out of town that day—that night, did you not?

A. Yes, sir.

Q. You had been working very hard?

A. Yes, sir.

Q. And you went out with your wife and some of your friends and you went out in the country and had a little lunch?

A. Yes, sir.

Q. And when you went, before you went, you had a talk with Captain Curley?

A. Not since I left him at five o'clock.

Q. Well, five o'clock?

A. Yes, sir.

Q. And you did not anticipate any trouble?

A. No, sir.

Q. And, so far as you know, he did not?

A. That's right.

Q. So far as you know, nobody did, is that right?

A. That's right.

Q. And you went away, about half past nine, and you came back about what time?

A. About eleven o'clock.

Q. And the whole trouble was over when you got back there?

A. That's right.

Q. I am not criticizing you for going at all—do not misunderstand me—but when you did get back the trouble was all over, was it not?

A. Yes, sir.

Q. And, of course, you did not see any of the trouble?

A. That's right.

Q. Did you go to the scene of the fight afterwards?

A. Yes, sir.

Q. Did your officers make written reports to you and

the Chief of Police of Massillon as to what occurred that night?

A. I had one report when I left from Officer Slinger.

Q. Have you got it with you?

A. No, sir.

MR. DONALD WAKEFIELD SMITH: Pardon me.

Was he one of the permanent officers, or was he one of your—

THE WITNESS: He was one of the permanent officers, yes, sir.

Q. (By Mr. Day) Did you get any other reports?

A. Nothing but verbal reports.

Q. And I think you said in the early part of my cross examination—I will not press it again—but somebody brought in some arms and things that had been collected that night,—ball-bats, and such?

A. There was some brought in, yes.

Q. Were there any arrests made, do you know, in connection with that fight that Sunday night?

A. There was about 160 of them run in.

Q. About 160 of them?

A. Yes.

Q. Were those strikers?

A. Strikers and everybody.

Q. Well, were most of them strikers?

A. A good many of them.

Q. How long after this thing happened were they run in, as you say?

A. Oh, they were hauling them down in truck loads when I got there.

Q. Did Mr. Hardman, the City Solicitor, have charge of the City's end of that?

A. He questioned a good many of them.

Q. Well, what happened to them?

A. Most of them signed waivers, and was released.

Q. That is, signed waivers and agreed to appear?

A. No, they signed waivers releasing them and releasing the city from any suit.

Q. Well, were there any preliminary hearings held on any of them?

A. There was charges placed against some of them.

Q. Are the charges still pending, do you know?

A. I don't know what the outcome of that has been, since we have been away.

Q. I see. You have not any personal knowledge of that?

A. That's right.

Q. Now, some of your old officers, if I may use that expression, were out there that night, were they not?

A. Yes, sir.

Q. Was Officer Moore out there that night?

A. He was in on some of it.

Q. What is his first name?

A. Wilbur.

Q. And he has been a member of your force for how long?

A. I think he has got about 12 years in—

Q. Well, is he in charge when you go away?

A. No.

Q. What is the name of the man that is in charge now?

A. Robert E. Smith.

Q. Was he out there?

A. I don't think so; he was out of the office.

Q. Well, there were some rookies—as you call them—out there, and some of your old fellows out there, were there not?

A. That's right.

Q. It was not all rookies, was it?

A. No, sir.

Q. Can you give the Board some idea as to how many of the old fellows were out there that night when this trouble took place?

A. The report I had, that there was only about two of them.

Q. Where were the rest of them?

A. I don't know where they were at.

Q. Well, Moore was one of them, is that right?

A. I don't know Moore was out there.

Q. Did you hear a report about the entrance to the viaduct having been blockaded that night by C. I. O. automobiles?

A. I have a complete report of that by Officer Slinger.

Q. Have you got it with you?

A. No, sir.

Q. Where it is?

A. In my office.

Q. Of course I cannot ask you about that now, but I want to step up here again, if I may, and—(referring to map on desk) did that relate to the blockading? Did that relate to the blockading of the entrance of the viaduct?

A. Yes, sir.

Q. By piling up some cars?

A. I believe there was supposed to have been a couple of cars jammed up in here, coming off of Erie Street, and jammed up right in there (indicating on map).

Q. Yes, by the C. I. O.?

A. I don't know whether it was by the C. I. O. or not, but there was two cars, I understand, jammed up in there, and that they had a party on that end of the bridge.

Q. Yes, before they had the other party down here at C. I. O. headquarters?

A. That's right.

Q. And you got a report on that from Officer Slinger?

A. Yes, sir.

Q. There was one other episode I wanted to ask you about.

MR. EDWIN S. SMITH: Excuse me. We will recess.

MR. DAY: Yes.

MR. EDWIN S. SMITH: For a few minutes.

MR. DAY: Thank you.

(Whereupon a short recess was had.)

MR. EDWIN S. SMITH: Are you ready, gentlemen? All right to resume now?

MR. DAY: Yes, all right.

MR. EDWIN S. SMITH: All right; fine.

MR. DAY: Are you ready?

MR. EDWIN S. SMITH: Go ahead. Quiet, please.

BY MR. DAY:

Q. Chief, you testified this morning about a talk with General Marlin about getting policemen and home guards, and in which you said something about neutrals, and he made some remark about putting neutrals on, or those who were not neutral. Did you get the impression that General Marlin had in mind that the situation was so acute, and trouble was so imminent that you ought to take anybody you could get?

A. That's right.

Q. Do you know about an injunction being granted down in Stark County?

A. Yes, sir.

Q. No—the temporary restraining order being granted against the strikers ?

A. Yes, sir.

Q. And you know it was granted by the Common Pleas Court of Stark County, by Judge Graham?

A. Yes, sir.

Q. And that was granted about when, Chief, can you tell us about when?

A. No, I couldn't tell you just when that come out.

Q. Did the pickets, or strikers, beat any men up,—that charges were brought?

A. Yes, sir.

Q. About how many?

A. Two or three that I know of.

Q. Well, were there others beaten up that no charges were made concerning, if you know?

A. Well, a couple of reports to that effect.

Q. Two or three were beaten up,—and were charges made with relation to them?

A. Yes, sir.

Q. And then there were perhaps two or three more that you heard about?

A. Yes, sir.

Q. That no charges were made concerning, is that right?

A. That is right.

Q. Do you know anything about any attempts being made to interfere with trains down in and around Massillon by the strikers,—mail trains?

A. No.

Q. That did not happen in Massillon, in any event?

A. No mail trains, no—you mean mail trucks?

Q. Well, was there any interference with mail trucks in Massillon?

A. Yes.

Q. By the strikers?

A. Yes, sir.

Q. Will you tell the Board about that, please,—interference with United States mail trucks.

A. The pickets blocked mail from going down into the Republic plant, and they blocked it from going down to the Union Draw.

MR. KOVNER: Just one moment, please.

May it please the Board, I am not quite sure, exactly, of the status of the attorney for the Organization that filed the charges, whether I have to come in and cross examine this witness after counsel for the Republic is through, or whether I may intervene at this

moment; but I do like to raise the objection, if it is in order, that I do not think counsel has, as yet, laid a basis for indicating whether the Chief here was personally present at the time, supposedly, that these trucks were stopped, and whether it is a basis of reports, whether written or oral, or otherwise—

MR. DAY: I thought the Board said this morning—I am sure it was stated that the Chief was permitted to testify not only to things that he actually saw, but to matters that were brought to his attention.

BY MR. DAY:

Q. Now, did you get some reports about interference with mail trucks?

A. Yes, sir.

Q. About how many occasions, or instances?

A. Oh, probably three or four.

Q. By C. I. O.—

MR. EDWIN S. SMITH: When—

BY MR. DAY:

Q. —by strikers?

MR. EDWIN S. SMITH: Go ahead, let him answer that question.

A. Yes, sir.

MR. EDWIN S. SMITH: I was going to ask you when these interferences or alleged interferences took place.

THE WITNESS: Early in the strike, while there were quite a few men still in the mill.

MR. EDWIN S. SMITH: Could you give approximately the dates?

THE WITNESS: Oh, I would say May 25, within that next week, I would say from about the 28th on up until June 5 or 6, somewhere like that.

MR. EDWIN S. SMITH: I take it Counsel that what you are seeking to prove by introduction of evidence on this point is the state of mind of the strikers

as it bears on the question of law and order?

MR. DAY: Yes.

MR. EDWIN S. SMITH: In that connection it would seem to me pretty pertinent that these events to which the witness refers apparently were over some time since. I do not know whether they were stopped by court order, or what the situation was, but I should think it would not be necessary to go into details—

MR. DAY: I am not going to go into details.

MR. EDWIN S. SMITH: Oh, I see.

MR. DAY: That is all I am going to ask about it.

BY MR. DAY:

Q. Now, was there some interference with freight trains also, not mail trains, but freight trains going into those plants?

A. I don't know anything about the trains. I didn't have anything to do with that. The railroad police was taking care of that.

Q. You have no knowledge of that?

A. That is right.

Q. There was one other occurrence I wanted to ask you about, and then I am through. What is the date of the occurrence when they rang the alarm, and the American Legion responded? What was the date of that?

A. I think that was on June 25, something like that.

Q. And the rumor reached Massillon that there were five to ten thousand rubber workers from Akron going down?

A. Yes.

Q. Is that right?

A. That's right.

MR. DONALD WAKEFIELD SMITH: Do you know the source of that rumor?

THE WITNESS: From Gordon Hesse calling me is the information I had on it.

MR. DONALD WAKEFIELD SMITH: And

Gordon Hesse is who, again?

THE WITNESS: He is connected with the sales department or the good will man, or something like that.

MR. DONALD WAKEFIELD SMITH: He works for the Republic Steel Corporation?

THE WITNESS: That's right.

MR. DONALD WAKEFIELD SMITH: And he is the man who told you this?

THE WITNESS: Yes.

BY MR. DAY:

Q. Well, now, shortly before that, or was it shortly before that that there was an invasion of Youngstown and Mahoning Counties, right near Massillon, of rubber workers from Akron?

MR. KOVNER: An objection, may it please the Board. I do not see how the Chief of Police of Massillon could have any knowledge of what happened at Akron.

MR. DAY: The Chief of Police of Massillon has not been testifying from matters only within his own knowledge.

MR. KOVNER: If the Chief is to be permitted to testify to those matters, I certainly think Counsel ought to indicate on what basis he has gotten the information which he is reporting, whether it is from newspapers printed in Massillon, and copies which he says—

MR. DAY: No, there is no such—

MR. KOVNER: —which are completely controlled by the minority league, or whether they were from other sources, but certainly should not be permitted to address the question—

MR. DAY: The reason I asked that question is this: There was an attempt made this morning, I think by Counsel, and I am not criticizing him for doing it, to create the impression that the rumor that the rub-

ber workers might be coming was thrown out by somebody connected with the Republic Steel Corporation without any foundation.

I respectfully suggest, perhaps that might have been in the mind of one of the members of the Board just now.

That being true, it seems to me it is within the latitude of the examination, as it has been conducted thus far, to ask this Chief if he does not know that at about that time there was an actual invasion of Youngstown by rubber workers from Akron, C. I. O. rubber workers.

MR. EDWIN S. SMITH: I think it is appropriate for you to ask the Chief what information he had or did not have on which he based his judgment as to how serious this threat was.

BY MR. DAY:

Q. Did you know anything about the Youngstown situation at this time?

A. Yes, sir.

Q. Well, was the rubber invasion, if I may use that word, of Youngstown, before this or after this.

A. Before that.

Q. Before that?

A. Yes.

MR. KOVNER: Well, just one moment, please—

MR. DAY: Well, go ahead—I am not saying anything.

MR. KOVNER: Counsel yet has not, I think, asked a question of the Chief as to whether he knew anything about the so-called invasion. The answer was yes. Counsel then assume there was an invasion. I think we first ought to find out whether there was any such invasion, and exactly what information the Chief had as to the invasion.

MR. DAY: I do not think that is the purpose at all.

MR. EDWIN S. SMITH: I took it from something said this morning that there was no such invasion.

MR. DAY: Well there was no invasion of Canton.

MR. EDWIN S. SMITH: That is what I understand, of Massillon.

MR. DAY: Of Massillon, I think that is true; but the fact that there had been an invasion of Youngstown, and the Chief of Police knew it, and it was known generally, might have some bearing on preparations made there, and might give some basis for what happened, and might, in the minds of Your Honors give some answer to the suggestion that this is all thrown up by Republic Steel Corporation just to create trouble there.

MR. EDWIN S. SMITH: I take it that the Chief has answered your question?

MR. DAY: I think he has.

MR. EDWIN S. SMITH: He said he did know—

MR. DAY: Yes.

MR. EDWIN S. SMITH: —there was some invasion of some sort at Youngstown.

MR. DAY: Yes.

MR. EDWIN S. SMITH: But he evidently did not take the rumors seriously as they applied to Massillon.

BY MR. DAY:

Q. Now, then, somebody called out the American Legion, is that right?

A. That is right.

Q. That was a man named Ryder?

A. That's right.

Q. What is his business, do you know?

A. He worked down in the mill.

Q. Down in the Republic?

A. Yes, sir.

Q. Who is the other man that you told us about, kind of a funny name—I will not say a funny name—an unusual name, that will be better. You told Mr. Hunt about him.

A. Lincolnhaley.

Q. I do not mean a funny name; I withdraw that. Was he a Republic man also?

A. Yes, sir, but where did he come in at?

Q. I do not know. Did he have anything to do with calling out the American Legion?

A. No.

Q. Well, anyhow, they rang the bell and the American Legion responded, is that right?

A. Yes, sir, that's right.

Q. And a great crowd of people congregated, is that right?

A. That is right.

Q. Where did they congregate?

A. Around the City Hall.

Q. That was how far from these plants?

A. A mile and a half.

Q. A mile and a half?

A. Yes.

Q. And then when it developed that there was no invasion of rubber workers, there was no harm done, and nobody was hurt, and the crowd dispersed, is that right?

A. That's right.

MR. DAY: Anything else? I think that is all.

MR. EDWIN S. SMITH: I would like to ask the witness one or two questions in connection with this Back-to-Work Movement.

BY MR. EDWIN S. SMITH:

Q. In how many instances were you approached by individual workers at the Republic plants that they wished

to return to work, and they wanted police protection and were doubtful that they could get adequate protection, or something to that effect?

A. How do you mean? Before the plant opened?

Q. Before the plant opened.

A. Oh, there was no individuals coming, it was general groups, and parties, meetings, the Law & Order, wanting protection and right to work and so forth.

Q. Were there groups of workers and business men and so forth, or what kind of groups were they?

A. Well, the one of three hundred and some come to the City Hall, were all Back-to-Work Movement, that was one large group.

Q. Those were three hundred workers?

A. Yes, sir, and then early in the strike period a group from the Union Drawn Company wanted to know about going back to work, and there was nothing definite about that group. They wanted to know if they could show that the majority wanted to go back to work what action we would take, and how we stood; but that was too early in the strike—which we didn't know much about the set-up then, didn't know what it was going to be.

Q. Were these three hundred talking in terms of the majority, of a block, or talking just about themselves?

A. Oh, they talked as though they represented the majority of the mill workers. They was a group that was supposed to have 3200 signers, or something like that.

MR. EDWIN S. SMITH: Go ahead.

MR. DAY: Well, there is one more question I want to clear up.

MR. EDWIN S. SMITH: Go ahead.

BY MR. DAY:

Q. Do you know, and if you do not know, of course, you cannot tell us,—that the injunction suit that was filed in Canton was filed in behalf of the men who wanted to go

back to work, and not on behalf of Republic Steel Corporation?

A. I don't know how that was handled.

Q. All right, all right.

Redirect Examination

BY MR. HUNT:

Q. Chief Switter, from whom did you get reports about the interference with the United States mails?

A. From the postmaster.

Q. Did anyone tell you that the reason why the C. I. O. interfered with these mails was because they were carrying something other than regular mail?

MR. DAY: Oh, I object to that.

BY MR. HUNT:

Q. That they were attempting to carry food into the plant?

MR. DAY: I object.

MR. EDWIN S. SMITH: I think that is an appropriate question since the matter has been brought up.

MR. DAY: Well, the form of it seems to me to be—

MR. PATTON: Always suggesting the answer in his question.

BY MR. HUNT:

Q. Were you informed that one reason why there was interference with mail trucks was that they were carrying food into the plant?

A. Yes.

Q. Who told you that?

A. Why, the pickets.

Q. They told you that was the reason they interfered?

A. Yes, sir.

Q. Now, did someone tell you that the Chief of Police of North Canton rode in the mail truck to get through the picket line in Canton, to make sure that he would get through?

A. How is that?

Q. Did someone tell you that the Chief of Police of North Canton rode with the mail truck to put him through the picket line?

A. No, the postmaster and Carl Meyers, that is the postmaster of Massillon, and also Carl Meyers told me that there was a police captain in Canton who rode the mail trucks in with a machine gun, saw that the mail trucks went through there.

Q. Did you investigate that statement?

A. I did, I talked to Chief Mandibar about it.

Q. Who is Chief Mandibar?

A. Chief of police of Canton.

Q. What did he say?

A. He said that there was nothing to it, that his men were not riding the mail trucks; but that they were sending the cruiser down following the mail trucks and that the mail trucks was going through.

Q. It was just said that some clubs and sticks were brought in by your officers after the fight of Sunday night, July 11, is that right?

A. Yes, sir.

Q. Were any guns, revolvers and anything of that sort brought in?

A. No, sir.

Q. None were found at strike headquarters?

A. No, sir.

Q. None were found on any of the 160-odd men who were arrested?

A. There was one had a knife in his pocket that was charged with being a concealed weapon because it had an extra long blade on it.

Q. Was that the only weapon of that kind found?

A. That's right.

Q. And there was no guns of any sort in the 160-odd men arrested?

A. That's right.

Q. I just want to make sure of one other thing, one or two more things.

You say that at the meeting, this lunch on July 7, where there were members of the Law & Order League present—

A. Yes, sir.

Q. —Carl Meyers was present?

A. Yes, sir.

Q. He criticized you and the other city officials for not showing more activity up to that time?

A. That's right.

Q. And he said—what else did he say?

A. He said he was glad to see that they were finally on the right track and were going to do something.

Q. At these various conferences with Mr. Meyers, did he talk only of preserving law and order and giving protection, or did he speak about opening up the mills?

A. He talked about getting the mills opened, and that if we did not get the mills open that Massillon would be a prairie in the junction of Route 21 and Route 30.

MR. DONALD WAKEFIELD SMITH: Mr. Meyers said that, you say?

THE WITNESS: Yes, sir.

Q. (By Mr. Hunt) You testified that about two thousand men went back to work when the mills were finally opened?

A. Yes, sir.

Q. How do you know that?

A. That's what they told me down at the mill.

Q. Who is that?

A. Raleigh France.

Q. Who else?

A. That's all.

Q. And Raleigh France is the gentleman in charge of the main office, is that it?

A. That's right.

Q. And he told you there were two thousand back?

A. That's right.

MR. HUNT: I believe that is all.

MR. DONALD WAKEFIELD SMITH: May I ask this question.

Q. (By Mr. Donald Wakefield Smith) You testified that Mr. Meyers of the Republic Steel Corporation had told you that if there were not proper action in this matter, which, in his opinion was proper action, it would make a prairie of Massillon. Had anybody from the Law & Order League ever said that to you?

A. No.

Q. You stated that to your knowledge there were no employees of the Republic Steel Corporation members of the Law & Order League, is that correct?

A. That is right.

Q. You stated, as I recall, that the principal and chief member of the Law & Order League was an officer of a bank, is that correct? You said some person, as I recall, connected with a bank.

A. No, that morning that Law & Order League was in there there were two bankers in there.

Q. I see. The bankers were there with the Law & Order League?

A. That's right.

Q. I believe you said that one of them operated a small rubber factory in Massillon, is that correct?

A. Yes.

Q. And that several others were operating stores in Massillon, is that correct?

A. No, one operated a rubber factory, one was a well-drilling outfit.

Q. They were business men in Massillon?

A. Yes.

Q. Is that correct?

A. That's right.

Q. Did any one from the Law & Order League indicate to you, or tell you, that their major interest in the matter of your giving additional police protection was because of their economic interest in the community, or because of their desire to prevent bloodshed?

A. Well, run mostly along the losing of $40,000 a day on the pay roll.

MR. DONALD WAKEFIELD SMITH: That is all.

MR. HUNT: I have just one more question, if I may, or a few more.

Q. (By Mr. Hunt) When Mr. Pepper gave you this list of names, I think it was the afternoon of July 6th, of men in the Republic Steel plant who would be available as special police, did he indicate that they were going to give up their jobs permanently, or just have a leave of absence from the Republic Steel plant?

A. It was a leave of absence as long as I needed them.

Q. Just one more question.

Did these men—these 30-odd special police that you swore in on July 7th,—were most of them Republic Steel men?

A. They were.

Q. Now, then, did that include some foremen of the Republic Steel plant?

A. Yes.

Q. Was there a man by the name of Temperly sworn in?

A. Temperly.
Q. Yes.
A. Yes, sir.
Q. Was he a foreman, to your knowledge?
A. I don't know what Temperly does any more.
Q. A man named Henderson, William F. Henderson, was he sworn in?
A. Yes.
Q. Was he a foreman, as far as you know?
A. He was some kind of a boss in the billet shed.
MR. HUNT: That is all.
MR. EDWIN S. SMITH: Any further questions?
MR. DAY: Just a couple.
Are you through, Mr. Hunt?
MR. HUNT: I am through.

Recross Examination

Q. (By Mr. Day) Did I understand you to say that some pickets had told you that they had stopped the mails because food would go in?
A. Yes, sir.
Q. That they had done that themselves?
A. Who do you mean?
Q. Well, did the pickets tell you that they, themselves, had stopped the mail because food had gone in, or was going in?
A. Why, they didn't say they had stopped it. When I got there, why, the complaint had been sent in, called to my attention by the postmaster, and I went down with the mail truck, and saw that the mail truck went through on numerous occasions, and then, eventually, the complaints began to come from the postmaster too frequently to be running down there every day or so, and I told the postmaster to report it to his inspector in Cincinnati and see what they was going to do about it, and request

a meeting with the post office inspector in charge of our district.

Q. What pickets told you that the mails had been stopped because they were carrying food into the plant?

A. I believe it was a fellow named Herb Laughlin.

Q. Who else?

A. I think Lee Cox.

Q. Anybody else?

A. That is all I can remember.

Q. Do you remember the railroads put on extra policemen to protect that property?

A. Yes.

Q. How many extra policemen did the railroads put on? Do you remember that?

A. The Baltimore & Ohio, I think, had about ten men around that time.

Q. Any other roads? How about the Pennsylvania?

A. The Pennsylvania had a few, but I don't remember how many.

Q. Do you know whether the strikers had attempted to damage the railroad property?

A. One day they pulled a rail off on the Baltimore & Ohio.

Q. The strikers pulled a rail on the Baltimore & Ohio?

MR. PRESSMAN: Just a minute, please. I would like to have the witness indicate at this time if he knows of his own personal knowledge that the strikers pulled a rail on the Baltimore & Ohio.

Q. (By Mr. Day) Was that reported to you as chief of police?

A. No, sir. I talked to a railroad policeman about it.

Q. Did they report it to you?

A. No; he just told me about it.

Q. That a rail had been pulled?

MR. PRESSMAN: Just a minute, please. I

certainly think it is one thing for the Board to exercise discretion as to the witness testifying of his own personal knowledge to things as against a situation where it involves evidence which may prove to be something that involves some serious offense where names are being mentioned.

MR. EDWIN S. SMITH: I think you are entirely right with regard to that, Mr. Pressman. I think the only admissible testimony on this whole point is the Chief of Police knew of his own knowledge as to any of these activities, and that, I take it, from the point of view of showing whether his knowledge meant to him that it was necessary to put on extra police at this later date.

MR. DAY: That is all.

MR. PRESSMAN: I have one or two questions I would like to ask.

Q. (By Mr. Pressman) You indicated that about 150 or 160 men were arrested following the incident of the evening of July 11th?

A. Yes, sir.

Q. When you returned from your trip about 1 o'clock, I understand—was it 1 o'clock in the morning?

A. Yes, sir.

Q. On July 12th?

A. That is right.

Q. Were there about 150 or 160 men who had been arrested at that time in the city jail?

A. In the city jail, and we sent some to the county jail in Canton and some to the city jail in Canton. We couldn't handle all of them.

Q. Was that all done under your direction, as to where they were being sent?

A. When I got there and saw the boys and how they were jammed and how they were jamming them into the jail, I saw they could not be handled and I started them

on the way to Canton to relieve the congestion in our jail.

Q. Who had arrested all of these men?

A. I don't know. The soldiers had herded up a bunch of men, and the sheriff's outfit had gathered up a bunch of them, and they were all brought down to police headquarters.

Q. With regard to those men who were in your city jail, who took over the procedure of seeing that there were either warrants or affidavits or some charge against these men? Was it your department or was it some other department of the city?

A. It was up to our department. But the city solicitor and city prosecutor went about and questioned them and handled releases and the charges.

Q. How many of the 150 or 160 men were in your city jail other than those who had been distributed to the other places?

A. How is that?

Q. I say, Chief, how many of the 150 odd men who were arrested were located in your city jail?

A. I guess when it was all over we had fifty or sixty in there.

Q. Of the 150 or 160 men who had been arrested do you know against how many charges were finally placed?

A. Not exactly.

Q. About how many?

A. I would say probably ten or twelve.

Q. Of 150 or 160 arrested there were only ten or twelve who actually had charges placed against them?

A. That is right.

MR. PRESSMAN: That is all.

MR. HUNT: I have nothing further.

MR. DAY: That is all I have.

MR. EDWIN S. SMITH: Thank you very much.
(Witness excused.)

RICHARD B. HARDMAN

was called as a witness upon and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Hunt) What is your full name?
A. Richard B. Hardman.
Q. Where do you live?
A. 922 Fourth Street, Northeast, Massillon, Ohio.
Q. What is your occupation?
A. Lawyer.
Q. Are you at present City Solicitor of the City of Massillon, Ohio?
A. Yes, sir; I am.
Q. When were you appointed?
A. About January 30, 1936.
Q. Is that an appointive or an elective office?
A. It is an elective office.
Q. How did you come to be appointed?
A. The attorney who was elected died and the mayor appointed me to fill his place.
Q. Are you a candidate in the Republican primaries for election this coming month?
MR. DAY: Does that make any difference?
MR. HUNT: I don't object.
A. I don't know whether I am a candidate or not, but I took out a petition. I might put it that way.
Q. (By Mr. Hunt) You are a Republican?
A. That is correct.
Q. Mr. Hardman, were you present at a meeting with Mr. Carl Meyers and Mr. Gordon Hesse at the Hotel

Onesto on June 9th?

A. I was.

Q. Who else was present?

A. Mr. Lanham and the Chief of Police of Massillon, Ohio, was there.

Q. Will you describe what happened at that meeting?

A. We went up into the hotel room and Mr. Meyers began asking us what the people of Massillon were doing about the strike, what the police department was able to do, and what the business men were doing about it, whether or not they were interested in keeping the steel plant there. And he went on to say that if the steel plant moved out that they would not need a chief of police and they would not need a mayor and would not need a city solicitor.

Q. Did Mr. Meyers make a remark that if the plant moved out there would be grass growing in the streets?

MR. DAY: I object to leading questions all of the time.

MR. EDWIN S. SMITH: This is confirmatory, I take it, of what the previous witness has said.

MR. HUNT: That is right, sir. It is merely corroborative.

May he answer the question?

MR. EDWIN S. SMITH: You may answer the question.

A. He did.

Q. (By Mr. Hunt) Did Mr. Meyers make any remark about the Chicago police and how they handled the situation in Chicago?

A. Well, that matter came up in the general discussion and Mr. Meyers pointed out what a fine job the police of Chicago had done. And the Chief then broke in. Do you want his exact words?

Q. Yes.

A. He said, "Why, God damn it, if the Police Department of Massillon went down there and got into a battle with the pickets and they put 18 of them into the hospital, the same as they did in Chicago, I wouldn't even have a department."

Q. What else was discussed by Mr. Meyers and yourself at this meeting?

A. The matter of getting the office employees out of the office. They had been confined in there since the 26th of May.

Q. Was there anything said about getting the office records as well as some of the employees out of there?

A. Yes, sir.

Q. What was arranged about that?

A. They arranged to put the office records in trunks on the cars, and then the Chief was to escort the cars out.

Q. Did Mr. Carl Meyers offer to give Chief Switter the company arms and ammunition that were then located in the main office of the plant?

MR. DAY: If the Board please, may we transgress upon the patience of the Board and once more raise the question? We are entitled to have this witness asked what was said. Every question he asks is something like: Did Carl Meyers say this; did Carl Meyers say that; did someone else say that? Granting and conceding that according to the rules of this Board you are not bound by the rules of evidence in courts, we just appeal to your sense of fair play here.

MR. HUNT: When I asked the last question I asked did Mr. Carl Meyers offer the gift of ammunition. I certainly can question about that very specifically.

MR. DAY: You cannot ask that question of your own witness under any possible rule ever announced

by any court anywhere. And if you ever practiced law you know it.

MR. EDWIN S. SMITH: Let us not have any further colloquy today.

MR. DAY: I do not like to interrupt. I do ask of the Board, in fairness to us, to require that Counsel ask the witness what was said. What did Mr. Meyers say? What did the Chief say? Otherwise, I submit, and with all due respect to this Board—and I have respect for it—it is not fair to us to go the other way.

MR. EDWIN S. SMITH: It seems to me perfectly proper to go into the question of what Mr. Meyers said on the subject of ammunition, if the witness knows about it.

Q. (By Mr. Hunt) Did Mr. Meyers say anything to you with regard to company ammunition?

A. He did.

Q. What did he say?

A. In the discussion of the size of the police department of Massillon, Ohio, and what they were equipped with, and the taking out of these employees from the Republic Steel division, it was mentioned that there were some arms and ammunition in there. And I believe Mr. Meyers said they could lock them up in the vault there but they wouldn't do anybody any good there. And he said he would give them to the police department of Massillon, and that that would be a nucleus for this equipment that the Chief had been talking about.

Q. How was it arranged to give them to the Chief, or were arrangements made for the transfer of this ammunition to the Chief of Police?

A. Yes, they were.

Q. What was done? What were those arrangements?

A. Mr. Meyers called in the stenographer and

dictated a letter addressed to Mr. France, authorizing Mr. France to turn those over to the Chief of Police.

Q. Were you present at another meeting with Mr. Carl Meyers on June 11th?

A. Yes, sir.

Q. Who was with you?

A. The Chief of Police. Do you mean who went with me from Massillon?

Q. Yes.

A. The Chief of the Massillon Police Department and the police prosecutor and myself.

Q. Please describe what happened at that meeting?

A. Well, we met Mr. France, who was the Chief deputy of the sheriff's office of Stark County, and we went up to Mr. Meyers' hotel room, and Mr. Meyers then discussed the matter of running some food into the Republic plant.

Q. Did he tell you why he wanted the food ran in and why it was important to run in the food?

A. He said there were some employees in there, that they had about sixteen policemen and four maintenance men and the blast furnace, and that they were running low on food and wanted to make sure the food got in before they ran out.

Q. Did Mr. Meyers make any further statements concerning the strike situation?

A. Well, he said if the blast furnace cooled off and went down he would be God damned if he would open it because it would cost too much money; that the biggest investment was there and it would cost too much to reheat those coke ovens.

Q. Was there any plan arrived at for getting in the food?

A. I suggested at that meeting that they use a little strategy to get it in, and if the Republic Steel Company could afford to run a truck in there and leave a truck in

there that they probably would not get it out again, but they could load that truck with food and probably make a surprise visit down there and get the truck in.

Q. How was your suggestion received?

A. Well, they said they would think it over. And then the Chief said he would see what he could do about getting the food in one way or another.

Q. The following day did you go out to strike headquarters with Chief Switter? I mean the C. I. O. headquarters?

A. Yes, I did.

Q. On that occasion did you meet a Mr. Marshall?

A. Yes. Mr. Marshall was there at the C. I. O. headquarters.

Q. Will you describe what your relations with Mr. Marshall were on that occasion?

A. Mr. Marshall has charge of the relief and the insurance department at the Massillon branch of the Republic Steel, and he had with him a gentleman who he said represented the Metropolitan, and they wanted to go into the main office to get certain records which they claimed the Metropolitan Insurance Company did not have, and they said they were at the strike headquarters to try to negotiate to get in. So the Chief stepped into the picture, then, and they finally agreed that Mr. Marshall could go into the Republic Steel main office with this man from the Metropolitan accompanied by two pickets.

Q. Did you discuss the question with Mr. Morton, or any of the other strike leaders, of getting food into the guards and maintenance men?

A. Then Mr. Marshall and this gentleman representing the Metropolitan left and we discussed the matter; yes, sir.

Q. What was the result?

A. Well, we did not get very far. I argued with

Morton that the Republic Steel had always maintained guards there, and that the guards had been in the habit of passing in and out, and, as I understood it, they were not eligible to become C. I. O. members anyway, and so far as the four maintenance men were concerned, they needed them—that is, Republic Steel needed them in there to keep the blast furnace and coke ovens, or whatever they were, warmed up. And Morton refused to do anything about it. He said C. I. O. had plenty of men who could keep those ovens going and that he did not want any food ran in there?

Q. And did he offer to supply any men to keep them going?

A. Yes, he did. He said he could supply men and they would be good men.

Q. After this meeting at C. I. O. headquarters, where did you go?

A. We went back down town to the City Hall.

Q. Were you in Chief Switter's office at the time of the telephone conversation he described having with Mr. Carl Meyers?

A. I was.

Q. After that conversation was over what did Chief Switter say to you?

A. Well, the Chief said that Carl Meyers had just called up and climbed all over him because he wanted those two pickets to go in with Mr. Marshall and he would not let the pickets go in and would not let them set foot on his property.

Q. Where did you go after that?

A. After that we started out to lunch.

Q. Did you meet a Mr. Case, of the Massillon Chamber of Commerce?

A. Yes, sir; we did.

MR. DAY: Will the Board take these conversations under the same ruling that we had when the

same questions were asked of Chief Switter?

MR. EDWIN S. SMITH: You mean under the objection?

MR. DAY: Under the objection and exception.

MR. EDWIN S. SMITH: Yes.

MR. DAY: Except the conversation.

MR. EDWIN S. SMITH: All right.

MR. DAY: And then I will not have to interrupt.

MR. EDWIN S. SMITH: All right.

MR. DAY: If there is any additional objection I will state it.

Q. (By Mr. Hunt) Did you hear Chief Switter tell Mr. Case about his telephone conversation?

A. I did.

Q. What did Mr. Case say?

A. Before the Chief and Mr. Meyers were through talking over the telephone I thought that there was some difficulty there. And when the Chief said, "I will call you back later." When we met Mr. Case we told Case what had happened and he said he could get in touch with Mr. Lester, and Mr. Lester could no doubt fix it up.

Q. So far as you know, did Mr. Case get in touch with Mr. Lester?

A. He did.

Q. Did you see Mr. Lester?

A. I did.

Q. When?

A. Immediately after that we went into Bender's Restaurant and Mr. Lester was in there. Mr. Case talked to him about the thing we were up against, and Mr. Lester suggested he could fix it up, or he thought he could, and then he left the restaurant.

Q. Did you receive a telephone call a few minutes later from Mr. Lester?

A. I did.

Q. What did Mr. Lester say to you?

A. We were seated at the table and the cashier came back and said I was wanted on the telephone. And I went up there, and it was Lester. And he said he had talked to Mr. Meyers.

Q. What Mr. Meyers was that? Do you mean Mr. Carl Meyers?

A. Yes, I mean Mr. Carl Meyers. And Mr. Meyers said it would be all right for a few days, that he would wait for a few days for the answer.

Q. On June 14th, were you present at an early morning meeting at the Chamber of Commerce by members of the Law and Order League?

A. I was.

Q. Was the mayor and Chief Switter with you?

A. They were.

Q. What was discussed at this meeting?

A. The matter of putting on additional police on the regular police force, although they were to be called special officers.

Q. How many men did the Law and Order people want put on?

A. They wanted fifty men put on. The City of Massillon has an ordinance that says that in case of exigency or emergency the mayor can appont additional police. And there is also a State statute in the case of riot or emergency that the mayor can appoint additional police. They felt that we would need fifty men to adequately police the town. But I got into the argument then and explained about the city's finances and the attitude that the business men had always taken towards the city's finances, and I wanted to know where the money was coming from. They said they would raise some money that could be used to equip these men and pay them.

Q. How much money did they indicate they would raise?

A. They asked the Chief how much it would take to

employ these men. He had that figured out. He had it already figured out and I think the figure was $8,300.

Q. Was anything said as to how they were going to raise the money?

A. By popular subscription from the business men.

Q. So far as you know was this money ever raised?

A. No, it was not.

Q. (By Mr. Donald Wakefield Smith) Who said that it would be raised by popular subscription from the business men?

A. I don't know just exactly who said it. There were fifteen or twenty of them there. But that was the understanding, that they would get it and get the business men to contribute. The mayor also said that all of the men who were put on would have to be examined by the Chief and go through the Chief, but that he would not consent to any of them being used to break up the picket line.

Q. That was Mayor Crier's statement?

A. Yes.

Q. On that same date did you have another meeting with Mr. Carl Meyers at the Hotel Onesto in Canton?

A. We did.

Q. Please describe what happened on that occasion?

A. I went up to the floor that the offices were on. Instead of going into the room we originally had these conferences in, they showed us into another room. We wasted a very considerable length of time, and finally Mr. Meyers came in. The Chief and the mayor stated they could not get the food down there, that they would not take it down, that they would not take the responsibility, and that they did not want any trouble over it, that the Republic plant, if they wanted the food run in, was out of the county and it was up to the sheriff to get this food in if they wanted it in.

Q. Did Mr. Meyers speak of how the police in Monroe, Michigan, had handled their situation?

A. Well, first, he said he would not let his men down, that he would get the food in anyway. And then he said, "Look what the people of Monroe did, how they handled the strike situation."

Q. Did he say anything else?

A. Oh, we talked about what it meant to Massillon, if Massillon would lose that plant, and there was danger of its being lost.

Q. What else did he say?

A. Well, he said that if the plant was lost, that the people of Massillon and the officials would be responsible for losing it; that he thought they were not taking any interest in it and in seeing that the plant was reopened.

Q. That the people and the officials were not taking any interest in getting it reopened?

A. That is correct.

Q. Did you arrive at any particular conclusion or agreement to do anything at this meeting with Mr. Meyers?

A. No. Mr. Meyers appeared a little bit hostile to them, telling him that the plant was in the county and that they could not get the food in. After they talked a few minutes longer, we left. We did not arrive at any conclusion at all.

MR. EDWIN S. SMITH: Just a minute, please. What is the answer to all of this pressure being brought to bear on the Massillon police, or the Massillon parties, to handle this situation, if the Massillon plant was over the county line or was within the county jurisdiction?

THE WITNESS: I don't know. They asked them to bring in this food.

MR. EDWIN S. SMITH: You don't know why

they were appealing to you rather than to the county authorities?

THE WITNESS: Well, the sheriff had one deputy down there on a motorcycle on each shift. I am sure the deputies were working 12-hour shifts, and they had just one deputy down there on each shift on a motorcycle, and they kept appealing to the city. I don't know why.

MR. EDWIN S. SMITH: If the plant was in the county wouldn't you presume the natural place for these people to go to would be the county if they thought there was not adequate protection?

THE WITNESS: I would think so. But, then, of course, the sheriff had his hands full.

Q. (By Mr. Hunt) Is there an organization in Massillon known as the Trades and Labor Council?

A. There is.

Q. What is it?

A. As I understand it, it is an association made up of a couple of delegates from each craft, like the Machinist's Union which contributes two or three members, and the Carpenters' Local which contributes two or three members, and all of the different craft unions.

Q. Is that an American Federation of Labor organization?

A. It is.

Q. Did a fairly large crowd come from this Trades and Labor Council to the city hall to see you and the mayor some time in June, about June 15th?

A. They did.

MR. DAY: We object to that.

Q. (By Mr Hunt) How many were there in the crowd?

MR. DAY: We object to that.

MR. EDWIN S. SMITH: Upon what ground?

MR. DAY: What connection is there between the

craft unions affiliated with the American Federation of Labor coming to see the mayor and the Republic Steel Corporation?

MR. EDWIN S. SMITH: I can't see any yet, but I presume he has some point in introducing this.

MR. DAY: Will you take it under objection and exception?

MR. EDWIN S. SMITH: Yes.

Q. (By Mr. Hunt) How many men came down from the Trades and Labor Council on that occasion?

A. Oh, there was a couple of hundred men. There was about two hundred.

Q. Did they have any leaders who spoke to you, or who talked to the mayor?

A. They did.

Q. What did they say to you?

MR. DAY: We object to what they said.

Q. (By Mr. Hunt) What did they say?

A. I was present at a meeting of the boxing commission of the City of Massillon, and they were going to put on some boxing shows in the City Hall. I heard this noise out in the hall and looked out and saw this couple of hundred men. Pretty soon the mayor showed up and said that these fellows wanted to talk to him and myself. I showed them into the Council chamber. They sat down and as soon as I was through I went in there. When I got there they got up and read a resolution that they had adopted that night protesting the addition to the Massillon police force, or putting on any additional officers. And I believe the resolution stated that there was no break-down of the law and order in the City of Massillon.

Q. Did you address the group?

A. After they presented this resolution they said if the city officials had any statement to make that they would receive it then, or, if they wanted to—that is, if the City officials wanted to, they could wait for a few days and

think it over and then make a statement. I got up and said our position was clear and we had already decided upon what we were going to do, and that I could not and would not stand there and say we were not going to put on any additional police because we had already picked some off of the civil service list. I also said in the case of emergency the mayor had the right to appoint them, and no doubt he would have the right; or he would appoint some to control the downtown district, and that we would not send them down to crack the picket line.

Q. Did you make any further remarks on that occasion?

A. Well, they asked me if I considered there was any breakdown of the law and order, and I said I had been asked to serve on a committee, or go to the Governor and ask the Governor if he would give some protection to Massillon. I said in my imaginary interview with the Governor that he would ask me what had happened in Massillon, and I would be forced to state that some men had been told not to go near the picket line, and some C. I. O. men were told not to go to places where non-strikers were gathered, that there was a blast of dynamite set off that did not hurt anybody, and that telephone cables had been cut and there had been a few beatings of men on which men had been arrested and tried; and that the Governor would then tell me to go home and wait until I got some trouble and then come down to see him.

MR. HUNT: That is the reason why I brought in the question of the Trades and Labor Council.

MR. EDWIN S. SMITH: Is this a convenient time for us to adjourn?

MR. HUNT: I think so.

MR. EDWIN S. SMITH: Very well, then. We will adjourn now and meet tomorrow morning at 10 o'clock.

(Thereupon, at 4:37 o'clock p. m., July 21, 1937,

an adjournment was taken until Thursday, July 22, 1937, at 10 o'clock a. m.)

Auditorium of the Public Health Service Building, Constitution Avenue between Nineteenth and Twentieth Streets, Washington, D. C., Thursday, July 22, 1937.

The above-entitled matter came on for hearing, pursuant to adjournment, at 10 o'clock a. m.

Before:

Mr. Edwin S. Smith, Member of the Board,
Mr. Donald Wakefield Smith, Member of the Board.

Appearances:

Charles Fahy, Esq., General Counsel, Robert B. Watts, Esq., Associate General Counsel, Mark Lauter, Esq., Lawrence Hunt, Esq., Oscar Grossman, Esq., and Joseph M. Hoskins, Esq., Counsel appearing for the National Labor Relations Board.

Luther Day, Esq., and Thomas F. Veach, Esq., of the firm of Messrs. Day, Young & Veach, (1420 Union Trust Building, Cleveland, Ohio), and Thomas F. Patton, Esq., (Republic Building, Cleveland, Ohio), appearing for the Respondent, the Republic Steel Corporation.

Lee Pressman, Esq., (50 Broadway, New York City), appearing for the Steel Workers Organizing Committee.

PROCEEDINGS

MR. EDWIN S. SMITH: Are you ready to proceed, gentlemen?

MR. DAY: If the Board please, in order to save the record, I would like to make a motion at this time to strike from the Record the testimony of Chief

Switter upon the ground it does not tend to establish any charge set forth in the complaint, or to prove any violation of the National Labor Relations Act.

I take it that motion will be overruled?

MR. EDWIN S. SMITH: It is denied, yes.

MR. DAY: I would like to make that motion applicable to each conversation and each episode and each incident related by the Chief.

Then, there are one or two questions that we want to ask the Chief. I don't know whether we would better ask them before Mr. Hunt finishes with Mr. Hardman.

MR. EDWIN S. SMITH: Mr. Hunt says that he would like to make a preliminary statement for the record. After that would you prefer, Mr. Hunt, to have the Chief go on?

MR. HUNT: I would be perfectly willing to have the Chief go on.

But I would like to make a statement regarding a small part of his testimony yesterday, when he said that I was his attorney. My only relation with Chief Switter has been that of attorney for the National Labor Relations Board. I first met Chief Switter on Monday, July 12th, and at that time and ever since my only connection with him has been as attorney for the Board.

MR. DAY: We accept that statement. Of course, we never made the claim that Mr. Hunt is the personal attorney for the Chief.

MR. EDWIN S. SMITH: Chief Switter, will you please resume the stand.

STANLEY W. SWITTER

resumed the witness stand, and, having been previously sworn, testified on behalf of the National Labor Relations Board as follows:

Cross Examination (Resumed)

Q. (By Mr. Day) Chief Switter, I want to ask you whether at a meeting at the Conrad Hotel in Massillon about May 28th, shortly after the strike began, attended by some members of what is called the Law and Order League, you made a statement or speech in which you said:

"I know there have been law violations committed in many ways. What can I do? I have been out on the picket lines and there has been nothing there but niggers, Wops, and communists. If I had the authority I would clean up the whole damn bunch. They ought to be run out of Massillon. They are nothing but a lot of law violators. There is not a decent man or a good citizen on the entire picket line."

Did you say any of that?

A. No, sir; not that way; no, sir.

Q. You say "not that way." Did you say it in any other way?

A. I said that I knew practically all of those fellows on the picket line, and I knew and worked with them, and I also said there was a lot of foreigners there and a lot of Negroes there, and they were walking around with sticks and clubs. And I said they had taken that over down there, and that there was nothing we could do about it.

Q. Did you say there were Wops and Communists?

A. No.

Q. Did you say if you had the authority you would clean up the whole bunch?

A. No.

Q. That they ought to be run out of Massillon?

A. No, sir.

Q. You did attend the meeting at the Conrad Hotel along about May 28th, didn't you?

A. Yes.

Q. Was that in the evening?

A. Yes, sir.

Q. Was that attended by some of these Law and Order people?

A. Yes, sir.

Q. So the meeting did take place but you did not say the things I am asking you about? Is that right?

A. That is right.

Q. Do you remember attending a meeting at a church along about Sunday, June 6th?

A. Yes, sir.

Q. Do you remember making some remarks at that meeting?

A. Yes, sir.

Q. Did you at that time say the C. I. O. was a communistic organization?

A. No, I said there were communistic moves on and in it.

Q. Communistic moves on and in?

A. On and in.

Q. On and in the C. I. O.?

A. Yes, sir.

Q. Did you say at that time that the pickets were a bad bunch, that you would like to see them run out of Massillon?

A. No, sir. The statement was made at that time—There was a lot of speaking that day, and I said something to the effect that there was so many wanted to go back to work that they might, if they proved how many wanted to go back to work, and what they wanted to do, and then we could do something about it; but until we knowed where we was at there was nothing we could do about it.

Q. Did you say anything to the effect that if the majority of the men wanted to go back to work, you would lead them down to the mill yourself?

A. I said if the majority of the people in Massillon

wanted to go to work, that they could go to work. I didn't see any reason why they could not.

Q. The day that the American Legion was called out, did you make a speech that day?

A. To that group that night to disperse them.

Q. At that time did you say if any rubber workers came down from Akron you would deal with them?

A. I said there was nobody coming in and take the city over.

MR. DAY: That is all.

MR. DONALD WAKEFIELD SMITH: Since this witness is on the stand I would like to ask him a couple of questions.

Q. (By Mr. Donald Wakefield Smith) I believe you testified yesterday that the American Legion was called out by an alarm being given, not by you but by some member of the American Legion in Massillon. Is that true?

A. I don't know whether he was a member of the Legion or not.

Q. You don't know whether he was a member of the Legion or not?

A. No, sir.

Q. As I recall it, you said they subsequently dispersed because they found nothing had occurred?

A. That is right.

Q. Then, in your opinion, the alarm which was given was a false alarm. Is that true?

A. Yes.

Q. There is another question that I would like to ask: You made the statement yesterday, as I recall your testimony, that Mr. Meyers, of the Republic Steel Corporation, had stated in your presence that if certain things were not done that the plant would not open and it would make a prairie of Massillon. That is true, isn't it?

A. That is right.

Q. I believe certain statements were made by Mr.

Meyers, in your presence, that the grass would grow on the streets of Massillon if certain things were not done. Is that true?

A. That is right.

Q. During any of those conferences at which you were present and at which Mr. Meyers, of the Republic Steel Corporation, made those statements, to your personal knowledge was any member of the Law and Order League present?

A. No.

Q. There is one other question that I would like to ask. A lot of questions have been directed here at what your duty might have been. As Chief of Police of the City of Massillon, what was your duty?

A. To maintain law and order.

Q. Was it your duty to assist in the reopening of the Republic Steel Corporation plant at Massillon?

A. No.

Q. Did you so consider it?

A. No.

MR. DONALD WAKEFIELD SMITH: That is all.

Q. (By Mr. Day) By the way, Chief Switter, are the special policemen still on the job?

A. So far as I know, they are.

Q. That was the situation when you left town, about a week ago?

A. Yes, sir.

Q. By the way, Chief, does your family know where you are?

MR. HUNT: I object.

MR. EDWIN S. SMITH: I think that objection should be sustained.

MR. DAY: An exception, please.

Q. (By Mr. Day) Does the City of Massillon know where you are?

MR. HUNT: I object.

MR. EDWIN S. SMITH: Same ruling.

MR. DAY: An exception, please.

That is all I have.

Q. (By Mr. Donald Wakefield Smith) Just one more question, Chief: You say on this day when you were out of the city when this disturbance occurred at the C. I. O. headquarters, and I believe it was on July 11th, that a Captain Curley, who had no connection with the Police Department but was formerly an army officer, had apparently assumed charge. Is that correct?

A. That is right.

Q. To your personal knowledge, has Captain Curley ever been employed by the Republic Steel Corporation?

A. I don't know.

Q. To your personal knowledge, has he ever had any connection with the Republic Steel Corporation?

A. Not that I know of.

Q. To your personal knowledge, is he a stockholder in the Republic Steel Corporation?

A. Not that I know of.

MR. DONALD WAKEFIELD SMITH: That is all.

MR. DAY: That is all.

(Witness excused.)

RICHARD B. HARDMAN

thereupon resumed the witness stand, and, having been previously sworn, testified on behalf of the National Labor Relations Board as follows:

Direct Examination (resumed)

Q. (By Mr. Hunt) Mr. Hardman, I think we stopped your testimony yesterday at some question about the Trades and Labor Council, at a meeting on Monday, June

15th. On the following Monday were you present at a meeting of back-to-work committee at the City Hall?

A. I was.

Q. Were any other officials of the City present?

MR. DAY: What is the date of this, if you can give it?

MR. HUNT: It was the following Monday, June 21st.

Q. (By Mr. Hunt) Were there other city officials present?

A. There was Chief of Police Switter, the mayor, and the safety service director, Mr. Charles Snyder.

Q. Was there any spokesman for this committee?

A. Well, we were down in the Chief's office.

MR. DAY: Without interrupting further, may I have the same record that we had yesterday on this?

MR. EDWIN S. SMITH: The same arrangement.

MR. DAY: An objection to all of it and to each part of it, which is overruled and an exception is noted?

MR. EDWIN S. SMITH: Yes.

THE WITNESS: We were down in the Chief's office, and when I came into the City Hall I noticed this crowd on the first floor. I went to the Chief's office to find out what the crowd was up for, and he said they were requesting a conference with us. So we got the mayor and we [went] up there. After we got upstairs and I saw how many there were, I suggested to them that we meet with a committee rather than with the whole crowd. So they appointed a committee and we went into the Safety Service Director's office with this committee. I believe the leaders of that committee were Nick Lincolnhaley and Paul Ryder and a fellow named Becker, and young Immel. I don't know what his first name is.

Q. (By Mr. Hunt) What took place? Will you

please tell the Board what took place that you observed at this meeting?

A. Well, they demanded protection down there at the picket line. They said they intended to go back to work and they wanted protection to go into and out of the plant. I told them that the plant was in the county, and felt that they should go to see the sheriff at the same time. Then they accused us of passing the buck, and they talked about not enforcing law and order and wanted to know why we turned down the $8,300 that the Chamber of Commerce was going to raise. Then the mayor said we were probably a little foolish to get all excited about it, that the plants would probably open within a few days, that there was no use going down there and having trouble and a battle and somebody getting hurt and losing more time than they would if they would not go down.

After that they asked us to come out and make a statement, or they asked the mayor and the chief of police to go out in the hall and make a statement. The Chief told them that he could not take any untrained men. The Mayor said that he wanted them to wait for a few days until the Mediation Board in Cleveland had reached some conclusion. He also said he did not want any bloodshed because it would react the same way on both sides, that if the non-strikers went down there probably some of them would be hurt and probably some of the pickets would be hurt; and he wanted peace and order.

Q. On that same day did you go to Canton and have a conference with someone?

A. Well, before they left that meeting they talked to me about helping them, as I understood it, and writing a letter to the Governor—that is, to Governor Davey. We discussed that in there but we did not reach any conclusion. Then, after they left we immediately went to Canton to see the Governor's National Guard observer there, who was Colonel E. P. Lawler.

Q. What took place at your conference with Colonel Lawler?

A. We had considerable trouble in finding Colonel Lawler at first. We finally found him up in Chief Vandebaugh's office, the office of the Chief of Police. We talked to Colonel Lawler about what we were up against, the Law and Order League, and so on, and the back-to-work movement. And then we asked him if he would not come over and look over the situation and see what it appeared to be like to him. Colonel Lawler said there was no need for him to come over because he had already been over, that he had ridden around the picket lines and around the City of Massillon and he didn't see anything to be alarmed about. Then the Colonel and I had a discussion about technical legal violations, and the meeting broke up.

Q. What did the Colonel say, so far as you can remember, about technical violations?

A. Well, he said in times of emergency like we were facing, both there and in Canton, that you could not be concerned with a lot of technical violations that were not hurting anybody, that if you did your jail would be full and you would never get any place.

Q. On that same date, did you attend a meeting at the City Council in Massillon?

A. I did.

Q. What other city officials were present?

A. Do you mean at the regular public meeting? There were a good many of them there.

Q. A meeting of the City Council when you discussed the strike discussion.

A. After the regular Council meeting, the Council adjourned to my office, and the Chief was there, and we discussed the matter there of putting on additional police. They immediately jumped us about not having the funds to spend, and they said there was no reason for the Chief

to get all excited about it; to begin with, the plant was in the county and it was up to the sheriff to do something about it.

Q. On the morning of June 25th, were you present at a meeting of a group of Law and Order League people of Massillon at the City Hall?

A. I was.

Q. Will you tell the Board what happened at that meeting?

A. Well, they came over early Friday morning—that is, a couple of representatives, and informed us that they wanted to see us at 11 o'clock, and they would have the chief deputy or the sheriff there. The sheriff did not appear, but his chief deputy did. The Chief of Police was there, and the Mayor, the Safety Service Director, the City Prosecutor, and myself, representing the city. Then there was Mr. J. G. Lester, and Mr. Case, Mr. Homer Welch, a newspaper reporter, two attorneys, Franklin Maier, and Elson Wefler.

Q. Will you please tell the Board what took place at that meeting?

A. Well, they had a petition drawn up in quite flowerly language. The only reason I did not laugh when they read it was out of respect for Mr. Wefler, who read the petition. When he got about half way through with it two officers from the National Guard arrived, and the Chief suggested that they reread the petition to them. So the petition was re-read to them. And after that was over, Maier gave a little speech to the Mayor about law enforcement, and about how he had it straight that the Republic was going to move out of Massillon if something wasn't done about it.

MR. DAY: This man is Mr. Maier. This is not Mr. Carl Meyers. The Board understands that, I suppose.

MR. DONALD WAKEFIELD SMITH: I was

going to ask whether it was Mr. Maier or Mr. Meyers.

THE WITNESS: It is Mr. Maier.

MR. DAY: The lawyer spells his name M-a-i-e-r.

THE WITNESS: I don't think they even know each other, so far as that goes.

Mr. Maier also stated that they refused to take $8,-300 that the business men had raised, when Mr. Case very graciously came to our rescue and said no, that it had not been raised. The meeting broke up and we were given to understand that we were to think it over.

MR. EDWIN S. SMITH: What amused you so much about this petition?

THE WITNESS: It had an excerpt in there from an opinion of the Supreme Court of the State of Ohio. With all due respect to the Court, it said, "Like a storm in the night the strike broke."

MR. HUNT: That is on the second page.

Q. (By Mr. Hunt) At this meeting, were there any further comments by Mr. Maier on the situation?

A. I don't recall any right now. He and I got into an argument about some of the things that were in that petition; and also when he wound up his speech by saying that the City of Massillon was losing a pay roll of $40,000 a day, I then stated that smoked the situation out and showed me it was not the Law and Order League, but it was merely a matter to protect the business men.

Q. Did Mr. Maier make any reference at all to the Republic Steel Corporation?

A. Not except that he had it straight that if something was not done they were going to move out of Massillon.

Q. He said what?

A. That he had it straight that if something wasn't done the Republic was going to move their plant out of Massillon.

Q. After this meeting was over, what did you do? I

mean at the conclusion of this meeting?

A. The Chief and I got an automobile. The National Guard officers explained why they were there, that they were looking for quarters. So we got an automobile and drove them around looking for a place to quarter their troops. We first took them to the old Elks Home, but that was not satisfactory; and we took them to the Y. M. C. A., but they were a little bit afraid of the damage that might be done there. We finally took them to the old city lodging house, and they believed that was the place that they would accept.

Q. Were you present at the City Hall that evening, the evening of June 25th? Were you in the City Hall in your office?

A. I went to the City Hall that night.

Q. Will you describe what you observed and what you did the evening of June 25th?

A. Well, about 6:30 in the evening I got a telephone call from the City Prosecutor. He said that I was wanted at the City Hall immediately, that there was a threatened invasion of the City of Massillon by some rubber workers. I wanted to know what was being done, whether they would send anybody out north of town in the direction of Akron to give an alarm if anybody did come in. And he said, I believe, that they had sent someone up there. And he told me that they expected to be down town right away.

I did not go down town right away because I felt that it was not a situation to be alarmed about, that if there was any invasion that before I could get there the highway patrol or the Akron police department, or somebody, would notify us that the rubber workers, or whoever it was who were supposed to come were coming.

At any rate, I drove down town about 7 o'clock, and as I reached the business district there were quite a few people standing up and down the street and the atmosphere

was very tense. In fact, it seemed to me so tense that I did not park my car in the business district, but I drove it out a little bit into the residential district so that if there was any trouble the car would not be damaged. Then I went to the City Hall and in the corridor I met Switter and Gordon Hesse.

Q. Who is Gordon Hesse?

A. He is a resident of Massillon, I believe, and an employee of the Republic Steel.

MR. DONALD WAKEFIELD SMITH: May I interpose a question. In your opinion was the assembly of that large crowd the result of the Legion alarm that was given for the American Legion on that night?

THE WITNESS: No, because most of the crowd was there before the alarm was given for the Legion.

Q. (By Mr. Hunt) Will you continue.

A. Well, we went back in the Chief's office to discuss the matter, and Hesse was more or less in favor of sending a group of the assembly out to the north of town, and between the Chief and I we decided the men better stay around the city hall where we could keep an eye on them. I didn't feel it was a good thing for the city to send men north of town that didn't belong there and have them stopping cars and interfering with people. So, we kept that group down town, and along about that time, that was about eight o'clock, a man showed up from the American Legion and called me from the Chief's office and asked me what I thought about the thing, and I told him I thought it was a lot of hocum.

Q. A lot of what?

A. A lot of hocum and there wasn't anything to it, so he said there was some men at the American Legion home and they didn't feel very good about this thing.

MR. DAY: We have a new reporter here now, and may the record show objection is made to all these conversations, which is overruled and exception taken.

MR. EDWIN S. SMITH: Let the record so show.

Q. (By Mr. Hunt) What do you mean when you said there was a lot of hocum?

A. Well, I didn't think there was anything to it.

MR. EDWIN S. SMITH: May I ask about this invasion? You didn't think there was anything to it?

THE WITNESS: I was convinced if there was an invasion we would know about it because in Ohio we have highway patrol, and it is a radio patrol, and I knew if there was any mass movement any place out of Akron, after that situation in Youngstown, the whole state would know about it.

MR. EDWIN S. SMITH: When you first heard of this alleged invasion, who was the person that principally described this at this meeting, do you recall?

THE WITNESS: Well, Gordon Hesse talked about it most.

MR. EDWIN S. SMITH: Do you recall what he said, what information he seemed to have about it?

THE WITNESS: He didn't seem to have much information about it except that he got a tip from some place that they were coming and he sort of had the Chief in the middle. He felt if he didn't do something about it, and they did come down, he would be on the spot, and if he kept the men there and they didn't come, he would still be on the spot.

MR. EDWIN S. SMITH: Did he say how many men were coming?

THE WITNESS: No, it was supposed to be quite a crowd.

MR. DONALD WAKEFIELD SMITH: Did Gordon Hesse describe who had made this statement that there was going to be an invasion?

THE WITNESS: No, I didn't hear him.

Q. (By Mr. Hunt) Was a picture taken of the crowd at any time to your knowledge?

A. There was.

Q. At whose instance?

A. Why, at Mr. Hesse's instance, and there was a newspaper man there. He wasn't taking any pictures. I didn't even know whether he had his camera there at the time. After Hesse talked to him, I later went upstairs in the City Hall into my office, and when I went there and looked out the window I saw this newspaper man taking pictures of the crowd out of the window.

Q. Did you hear Mr. Hesse say anything about taking pictures?

A. I heard him talk to a newspaper reporter about it.

Q. What did Mr. Hesse say?

A. Oh, he said it would be a good thing to have a picture.

Q. Did he say why it was a good thing to have a picture?

A. So they could show the Republic Steel there was still some interest in Massillon and some life there.

MR. DONALD WAKEFIELD SMITH: But that it had not yet become a prairie, is that true?

Q. (By Mr. Hunt) How was the crowd dispersed?

A. Well, along about,—I don't know the exact time, ten or eleven o'clock, the same two National Guard officers appeared on the scene and wanted to know what that crowd was doing out there and the Chief told them, and they suggested he send the crowd home, and so he went out and talked to the crowd and they dispersed.

Q. Did you have any conversation with Mr. Lincolnhaley and Mr. E. W. Case regarding registration of any men wanting to go back to work?

A. I didn't have any conversation with him, but I heard,—

Q. (Interposing) Were you present at any confer-

ence regarding that, their desire to register men wanting to go back to work?

A. Well, that morning, whatever day it was, I came down town, and I had some business at the bank and went in the bank, and as I came in behind the steel grille, there, the girl who was on duty to let you in and go out pointed out the window and wanted to know what that crowd was doing over there, said, "What is that crowd of hoodlums doing in town at this time of the morning?" So, I went to the City Hall and went in to the Chief's office and about that time Lincolnhaley and another fellow came in and wanted to know why their men had been ordered to move on, that they had rented the Union National Bank Building to register the men who wanted to go back to work.

MR. EDWIN S. SMITH: Who is Nick Lincolnhaley?

THE WITNESS: He is Chairman of the Back-to-Work Movement.

MR. EDWIN S. SMITH: Is he an employee of the Public [Republic] Steel?

THE WITNESS: Yes, sir.

MR. EDWIN S. SMITH: Had you known him before these episodes you mentioned?

THE WITNESS: No, I had never known him until about the 21st of June. I knew who he was, but I don't think he knew who I was.

MR. EDWIN S. SMITH: You mean you knew who he was in connection with the Back-to-Work Movement?

THE WITNESS: We got acquainted about the 21st of June, but prior to that time I knew who he was.

MR. EDWIN S. SMITH: What did you know about him?

THE WITNESS: Oh, nothing, he ran a park out of town.

MR. EDWIN S. SMITH: I thought you said he

was an employee of Republic Steel?

THE WITNESS: He is, but he and his wife runs this park.

MR. EDWIN S. SMITH: Do you know what his job in the Republic Steel is?

THE WITNESS: No.

Q. (By Mr. Hunt) All right, continue, Mr. Hardman.

A. After the Chief said,—a couple officers came in and said they had broken up the crowd and wanted to know if there were any orders, and Lincolnhaley wanted to know why their men had been ordered to move on, and the Chief said they could not have any registration there because it was going to lead to trouble in his opinion, so they put Case on the spot and asked if they could register in his office, and he said yes.

Q. What was Mr. Case's office?

A. The Chamber of Commerce.

Q. Were you present at a meeting in Canton, Ohio, on July 6 in the mayor's office in Canton?

A. I was.

Q. Who else was present?

A. The mayor of Canton and his Safety Director, the mayor of North Canton and his marshal, the Chief of Police of Canton, Chief Deputy of the Sheriff's office, Mayor Crier, Chief Switter, Safety Director of Massillon, and myself.

Q. What was discussed at this conference?

A. The matter of deputizing men was discussed, deputizing the Massillon police force so they would be deputy sheriffs.

Q. Was it finally agreed these men would be deputized?

A. It was.

Q. Did you support this proposal?

A. Well, I personally didn't support it, because I felt

that if the city police of Massillon were deputized then it would be up to them to take care of the west end of the county and I put that up to the sheriff, the sheriff himself was there, and I asked the sheriff if that meant we had to look after our own back yard, and he either didn't understand me or he wanted to put me off and he said, "This won't be any back-slapping proposition." He didn't say any "back", he said "back-slapping," and that is about all that happened. It was agreed the men would be deputized, and we left.

Q. On the afternoon of the same day were you present at a conference in Chief of Police Switter's office in Massillon?

A. Before I answer that, there was a Colonel of the National Guard at the meeting.

What was your question?

Q. Were you present at a conference in Chief Switter's office in Massillon that same day when two other men were present?

A. I don't recall.

Q. I will ask it in a different way.

Were you present at a conference in Chief of Police Switter's office when the matter of taking on men and adding men to the police force arose and was discussed?

A. Yes, sir; I was.

Q. Who was present?

A. Chief of Police of the city of Massillon, Mr. Pepperer and Harry Angstadt and myself.

Q. Who is Mr. Pepperer?

A. He is an employee of Republic.

Q. Do you know what position he holds?

A. No, I don't know.

Q. Who is Mr. Angstadt?

A. He is an employee of Republic.

Q. Do you know what position he holds?

A. I believe he is called the Works Accountant there in the Massillon plant.

Q. Describe what took place at that conference.

A. Well, they had a list there of men's names and they knew we wanted men to put on the police force, and they had a list of men's names that they wanted us to take on, or pick men from, there, and I went over the list and I knew quite a few of them that were on the list, and I said there [was] only a few on there that would be satisfactory.

Then, they wanted to know about putting on the Home Guard, men who were to be deputized and work in the mill during the day and serve in their own neighborhood at night, and we refused to consider that, and they said that they were doing it in Canton and wanted to know why we would not do it.

Q. Did they say anything else regarding the matter of the Home Guards?

A. No, that is about all that was said.

Q. There was no further argument in regard to putting on men in Canton?

A. Well, they called up Canton and found out that Canton, according to information they got over the telephone, that Canton was putting them on.

Q. And who did they call in Canton?

A. Why, they called the Republic Steel Company office.

MR. EDWIN S. SMITH: Just a minute, Mr. Hunt. You say you knew some of these men proposed as special police, and you didn't want them. Why, in a general way, was that?

THE WITNESS: Well, I didn't feel that they,—it takes a certain temperament to be a police officer, and I didn't feel that those men on the list were capable of holding down that position under an emergency like that.

MR. EDWIN S. SMITH: What would have been

wrong, in your judgment, with their temperament?

THE WITNESS: Too excitable.

MR. EDWIN S. SMITH: Too excitable?

THE WITNESS: Yes.

MR. EDWIN S. SMITH: Go ahead.

Q. (By Mr. Hunt) You say that they called Canton at the Republic Steel office. Who do you mean by that?

A. I believe Mr. Angstadt put the call in.

Q. Were you present at a meeting in the City Hall on the morning of July 7th with certain members of the Law & Order League?

A. I was.

Q. Were any other city officials present?

A. There were.

Q. Who were they?

A. The mayor of Massillon, and the Chief of Police.

Q. Who was the chief spokesman, if there was one, of the Law & Order League?

A. Well, Mr. Lester talked the loudest.

Q. Will you describe what took place, as fully as you can at that meeting?

A. Well, the minute I got into the City Hall that morning, the mayor grabbed me and took me into his office. On the way in he said the Law & Order League was there and wanted me to be present. So, they opened the conversation, or opened the discussion by saying that they wanted fifty men for Home Guards put on who were to be sworn in and privileged to carry guns. They were to work during the day and sort of act as policemen in their neighborhoods after working hours. I refused to take them, and they then said they wanted to know why we were discriminating against Republic men, and I told them we weren't discriminating against them as long as they were qualified, and they wanted to know what I meant by qualified, whether they had to own property or have money in the bank, or what, and I told them I felt they ought to have some

intelligence and be cool headed and so forth, and then they jumped on me about that and I said, well, I didn't have any police cars and I didn't have any executive authority and the whole thing is going to mean nothing to me. I sort of lost my head at that point and I said, "If you have got anybody that you feel can handle the job better than I can, you can have them." So, then, one of the members of the Law & Order League jumped me again and said I did have something to do with it, that I was acting more or less as spokesman for the group and that I was liable to be sued about that, that I was hedging on this question of putting on men and all throughout the discussion and I maintained the men would have to be qualified and I never did give in about taking them on.

MR. DONALD WAKEFIELD SMITH: Do you recall the particular member of the Law & Order League that made that statement?

THE WITNESS: That was Tom Poe.

MR. DONALD WAKEFIELD SMITH: Is he connected with the Republic Steel?

THE WITNESS: No, sir.

MR. DONALD WAKEFIELD SMITH: Do you recall whether Mr. Haley was there?

THE WITNESS: No, sir; there wasn't anybody there connected with the Republic Steel Company.

Q. (By Mr. Hunt) Will you continue stating what you started to say?

A. Well, Lester got quite indignant toward the mayor, shouting and yelling, and finally the mayor told him to be a little quiet, that he would hate to hang a gun on him as he might shoot somebody or himself.

MR. DAY: Who said that?

THE WITNESS: The mayor to Lester; and they kept pounding about the 50 policemen and the Chief said he didn't care, they could put them on if they wanted to, to put on 75 or 100, that there would be a

blow up as the result of it, and let them come.

Q. (By Mr. Hunt) Now that same day were you present at a luncheon at the Y. W. C. A. with several men?

A. I was.

Q. Do you recall what city officials were present besides yourself?

A. The mayor was there, Chief of Police, and Safety Service Director.

Q. Who was some of the other people present?

A. Oh, I just don't remember all of them, but I know Lester was there and Captain Curley was there.

Q. Was that Captain Harry Curley?

A. That is right.

Q. Were there any representatives from the leading manufacturing concerns of the town there?

A. There were.

Q. Was Mr. Carl Meyers of the Republic Steel Company present?

A. He was.

Q. Describe what took place at that luncheon.

A. Well, I don't know who opened the luncheon and described what was going on, but, anyway, Curley got up and talked and he talked against putting on those Home Guards, and then he suggested if they would all send a few men around the City Hall about three o'clock that afternoon that we might get enough to augment the police force.

Q. Did Mr. Carl Meyers make a speech at that luncheon?

A. He did.

Q. What did he say?

A. Oh, he said he was glad to see the mayor and chief had wakened up and that they had been asleep for some time, and I don't remember his exact words, but he roasted them pretty heavily.

Q. What do you mean "roasted them pretty heavily," for what?

A. Well, he felt they had not been doing their duty and so forth and so on.

MR. DONALD WAKEFIELD SMITH: Did he make any statement other than that with regard to the opening of the Republic Steel plant?

THE WITNESS: I don't recall about that. The only exact words I do remember he used, he said he loved Massillon and loved the Republic Steel Corporation.

MR. DONALD WAKEFIELD SMITH: Did he go any further and say if the Republic Steel Corporation closed that Massillon would become a prairie?

THE WITNESS: I don't think he made that statement.

MR. DONALD WAKEFIELD SMITH: But he did make some statement, did he, with regard to the closing of the plant and the fact it should reopen?

THE WITNESS: I don't believe he did. He dwelt more on the fact the mayor and chief had not enforced the law, that they had been asleep and had not been doing their duty.

MR. DONALD WAKEFIELD SMITH: As I recall, you stated at that conference several prominent business men were there.

THE WITNESS: They were all industrialists.

MR. DONALD WAKEFIELD SMITH: Were they members of the Law & Order League, to your knowledge?

THE WITNESS: I don't believe any of those present at the meeting, outside of Mr. Lester and Mr. Poe, were really members of the Law & Order League. I believe they were more or less roped in.

MR. DONALD WAKEFIELD SMITH: But

there were members of the Law & Order League present at that meeting?

THE WITNESS: Yes.

Q. (By Mr. Hunt) Did Mr. Meyers ever make the remark about Massillon becoming a prairie if the mills were not opened? Did you ever hear him make that remark?

A. I did.

Q. Where was that?

A. Why, that was over in the Onesto Hotel.

MR. DAY: You told about that yesterday, didn't you?

THE WITNESS: I believe I testified that.

Q. (By Mr. Hunt) You say Captain Curley made a speech at this meeting and attacked the idea of Home Guards?

A. He did.

Q. What else did he say?

A. He suggested that they all send men down to the City Hall about three o'clock and he would examine them.

Q. And who is "they all" ?

A. All the gentlemen who were present. They all agreed to send them down except Lester, and he said they didn't have anybody but old women in his plant.

Q. Were you in the City Hall at three o'clock that afternoon?

A. I was.

Q. Was there a group of men down there?

A. There was quite a large group arriving.

Q. Did Captain Curley pick out of this group any men for the extra police force?

A. He did.

Q. About how many?

A. Why, he picked about thirty or thirty-five.

Q. Who swore in these men?

A. I did.

Q. Do you know if these men had to be covered by bond? Is that right?

A. That is right.

Q. Do you know who underwrote those bonds?

A. I know the company that signed the bonds, that acted as surety, but I don't know who underwrote them.

Q. Do you know who paid the premium on these bonds?

A. No, sir; I do not.

MR. EDWIN S. SMITH: Had you by that time given up the exercise of your discretion as to the type of people that ought to be engaged for this work?

THE WITNESS: Well, at that time, in my position, I have neither executive power or police power, and when I looked out in the hall and saw that gang there, I thought I would let it go, and if they asked my advice on anything I would be there to give it, and the only reason I stayed there was to administer the oath and write up the bonds. That is the only reason I stayed there that afternoon.

Q. (By Mr. Hunt) Do you know the name of the local agency that wrote the bonds?

A. It was the Derr, Smith, Lane Agency of Canton that underwrote the bonds.

Q. Were you present on the evening of July 11th when the shooting took place?

A. No, I wasn't.

Q. About how many men were arrested as a result of this shooting on July 11th?

A. There were about 165 men. There were 143 that were run through the police blotter, but there were perhaps 20 more that they had no record of them when I [came] to examine them.

Q. How many of these 165 men were charged with carrying weapons?

A. One.

Q. One?

A. That is correct.

Q. What was he charged with carrying?

A. He was charged with carrying a knife, I believe the blade on it was about three and a half or four inches long.

Q. Did you examine these men to find out if any of them were subject to deportation as aliens, not having the right to be in this country?

A. I did.

Q. And how many of this 165 men did you find were subject to deportation?

A. Well, I didn't find any that I could say were subject to deportation, but I found about five that I suspected were subject to deportation.

Q. Was there any official from the Labor Department present when you were examining these men?

A. There was.

Q. Who was he?

A. Mr. Weatherby, of the Bureau of Immigration, with offices in Youngstown, Ohio.

Q. How long did he remain during this examination?

A. He was around there a while. I could not say how long. He came into the room where I was examining these persons and he heard me examine two of them, and he called me out in the hall and asked me what I thought about it, asked how many I had examined, I had probably examined 40 or fifty by that time, and he wanted to know what I thought, and I said I didn't believe we were going to get anything, and I didn't see any reason for him staying, "I am taking all the information down."

MR. EDWIN S. SMITH: Do you know any reason why he was over there?

THE WITNESS: Why, I don't know, except what I heard.

MR. EDWIN S. SMITH: Well, tell us what you heard.

MR. DAY: We object to that.

MR. EDWIN S. SMITH: Overruled.

MR. DAY: Exception.

THE WITNESS: Looking over some men over there and some suggestion that they came to Massillon to find out what was going on there.

MR. EDWIN S. SMITH: When did he arrive, just the night of these arrests?

THE WITNESS: No, he arrived, I believe it was, let's see, Tuesday, the 13th, in the afternoon; that was the second day after the arrests.

MR. DONALD WAKEFIELD SMITH: May I just ask a question there.

As a result of your examination of these various individuals, and as a result of any examination of the immigration inspector, was any warrant of arrest, pursuant to Section 19 of the Immigration Act, issued by the Secretary of Labor against these alleged aliens?

THE WITNESS: Not up until the time I left for Washington.

Q. (By Mr. Hunt) Was it the custom when somebody was arrested to examine him to see if he was subject to deportation? Had you done it before?

A. I have since last October.

Q. Were you simply carrying out the procedure in this case, or was there any other reason why you examined these men?

A. Well, we would have done it anyways, but the Law & Order League had been complaining that a good many of these men weren't in the United States legally, and they should be deported, and so forth, and I felt that I ought to at least satisfy myself just what their status was.

Q. And you found five or six you felt might possibly be subject to deportation out of the total of about 165?

A. I am assuming now that they told me the truth in the examination.

MR. HUNT: That is all.

Cross Examination

Q. (By Mr. Day) Are you a native of Massillon?

A. I was born in Cleveland, but I had all my schooling in Massillon.

Q. Is it City Solicitor they call you?

A. That is correct.

Q. How long have you been City Solicitor?

A. Since January 30, 1936.

Q. And you took quite an active part in representing the city in connection with the strike situation?

A. I did.

Q. You were the law officer of the city?

A. That is correct.

Q. And you acted in connection with the Chief of Police and the mayor?

A. That is correct.

Q. Now the mills closed down when in Massillon?

A. The mills were closed down the night of May 25th, although I didn't know about the strike until the following morning.

Q. And the strike took place the next day?

A. The strike took place about ten or eleven o'clock on May 25th, ten or eleven o'clock in the evening.

Q. Were there any men in the mills at all after that?

A. There were some men in the mill, I imagine a couple hundred men were in there.

Q. And all the rest had gone out?

A. And all the rest had gone out.

Q. And when did the picket line form?

A. The picket line formed,—this, of course, is hearsay, too.

Q. I just want your best knowledge and recollection of it.

A. The picket line formed at ten or eleven o'clock on May 25th.

Q. And when did you first go out and look at the picket line?

A. I went out the morning of the 26th. The Chief called me at home and said he wanted to see me right away and I must have gotten in his office about eight thirty, and he informed me we had a strike on, and we talked about various matters there, other things, and he asked me if I would like to see the picket line, and I said, "Yes," and we went down and looked at it, looked it over.

Q. What did you observe about the picket line that first day? About how many were on it?

A. I would say probably a couple hundred men the first day.

Q. Was that number increased or decreased as time went on?

A. That number decreased. Of course it varied. One day we counted them and counted 165 men.

Q. And as you went out to the picket line that day, did you do so also other days after that?

A. A good many days I went out.

Q. These pickets were armed, weren't they?

A. They had clubs, if you call that an arm.

Q. Well, some of them had ball-bats, didn't they?

A. There were a few of these small ball-bats like boys use, and then there were some broom sticks and some willow sticks.

Q. Were there stones around there?

A. There were stones, yes.

Q. And that situation with the mills closed down, except for the men you have told us about, and the picket line established, kept on until when?

A. That kept on until about the time the court issued

an injunction, and then that situation began to decrease, and when the troops came in they cleared the whole thing up.

Q. Can you give us an idea, or can you give the Board an idea as to just about when it was the Common Pleas Court issued that injunction?

A. I think it was about June 21st, 24th, or 25th, or right along in there.

Q. I asked the Chief this question and he could not answer it: Do you have knowledge of the fact that that injunction was granted by the court?

A. That was a temporary—

Q. A restraining order?

A. Yes.

Q. It is still in effect?

A. Yes.

Q. I understand the case has been heard on the merits, but there has been no decision on the merits yet?

A. If it has, it has been since last Thursday.

Q. If it has, it has been since last Thursday, you say?

A. Yes.

Q. Do you know that suit for an injunction was brought not by Republic Steel Corporation but by a group of men wanting to go back to work?

A. As I understood the suit, it was brought by some men who were located in the plant.

Q. Don't you know it was brought by men in the plant, and men outside the plant, also, who wanted to go back to work?

A. I just understood it was men in the plant. In other words, it was brought by someone other than the Republic.

Q. By the men?

A. Yes.

Q. (By Mr. Donald Wakefield Smith) Do you know

who the attorney in that suit was for the men?

A. Adolph Unger and Frank T. Bow.

Q. (By Mr. Day) So far as you know, neither Mr. Unger nor Mr. Bow is counsel, or ever has been counsel for Republic? That is right, isn't it?

A. Yes.

Q. (By Mr. Donald Wakefield Smith) Have they ever been counsel for the Law and Order League, to your knowledge?

A. Not in Massillon, but Mr. Unger has been prominent in the Law and Order League in Canton.

Q. (By Mr. Day) In this Law and Order League, is it an actual league, or is it just a group of citizens who joined together in connection with this strike situation?

A. I would say it was a group of citizens who joined together in connection with the strike.

Q. There wasn't any league before the strike?

A. No.

Q. So far as you know, the leading members of that league haven't any connection with Republic, have they?

A. None at all.

Q. And you have lived in Massillon for many years?

A. Yes.

Q. The leading members of that league are responsible citizens, are they not?

A. Well, they own property there. But, as I told one of them after the meeting, if I had gone into his private office and performed the way that he performed in the mayor's office, or the way they performed in there, that I would certainly be thrown out.

Q. Prior to the strike, they were responsible citizens, so far as you know?

A. So far as I know, they are responsible and had a business there, or owned property, or something like that.

Q. Now, as to the Chamber of Commerce. The secretary of that is Mr. Case? Is that right?

A. That is right.

Q. And he has no connection with Republic, so far as you know?

A. None at all. By "no connection," I mean that he is not employed.

Q. And he was a law-abiding, responsible citizen before the strike?

A. Yes; he still is.

Q. He still is?

A. Yes.

Q. You have talked about some statements being made there by Carl Meyers and by Mr. Lester and by various persons. Isn't it a fact the feeling was running pretty high there in Massillon during this strike situation?

A. That is right.

Q. And you told the Board about delegations, so-called Law and Order League coming to see you, and the Chamber of Commerce coming to see you, and Carl Meyers talking to you. Did anybody from the C. I. O. come to see you and the Mayor?

A. I never attended any meeting with the Mayor and the C. I. O. I have been in the Chief's office when they have been in there.

Q. And who would come in representing the C. I. O. at the Chief's office when you were there?

A. Usually Joe Morton was there.

Q. He is under indictment now, isn't he?

A. That is right.

Q. For obstructing the United States mails?

A. That is right.

Q. And that is an indictment returned by the United States District Court Grand Jury?

A. Yes.

MR. PRESSMAN: I would like to have those questions and answers stricken from the record. I do not feel that this witness here has any personal knowl-

edge with respect to that when it apparently occurred, as Counsel said, in the United States District Court in Cleveland.

MR. DAY: We have not been held to personal knowledge in any of these examinations.

MR. PRESSMAN: May it please the Board, as I stated yesterday, it is one thing for a witness to indicate information, but where it reflects upon an individual who may be involved in some serious situation I think we ought to be held to strict adherence to the rules of evidence.

MR. DAY: If the Board please, they have gone into the personnel of the Law and Order League, and they have stated that Mr. Lester, the head of that Law and Order League, made some rather extreme statements, and they indicated that he was not responsible, at least in this situation. Now, then, haven't we the right to show that the C. I. O. man who went there and conferred with these same city officials happens to now be under indictment by a United States Grand Jury, as tending to show what kind of a man he is?

Q. (By Edwin S. Smith) How much do you know of your own personal knowledge as to the questions Counsel has asked you?

A. If I can be permitted to explain how I know he is under indictment—

MR. PRESSMAN: May we take this off the record?

MR. DAY: No, no, let's have all of it on the record.

MR. EDWIN S. SMITH: It will be on the record. Go ahead.

THE WITNESS: Two United States Marshals came into the Police Department while I was there and asked if we knew where they could get in touch

with Joe Martin, that they had a capias for his arrest.

Q. (By Mr. Day) How long ago was that?

A. That was on the 14th or 15th of this month. We left on the 15th. It was probably the day before.

MR. DONALD WAKEFIELD SMITH: I think, Mr. Day, under our system of Government, a man under indictment is supposed to be innocent until proven guilty, just the same as the Republic Steel Company in this case is innocent until proven guilty.

MR. DAY: I think that is true. But I think when the other side is permitted to show that Mr. Lester was a man who owned property, that he happened to be the president of a manufacturing concern, and that members of this Board themselves brought out the fact that some members of the Law and Order League were bankers and business men, we have the right to show that the spokesman who brought these charges happens to be a C. I. O. man who is now under indictment

MR. PRESSMAN: Before Counsel talks on the record with regard to the character of anyone, affecting individuals of the C. I. O. who are witnesses, and addressing the question to a witness who has no information of his own personal knowledge with regard to that, it shows that the testimony of this witness is clearly incompetent at the present moment.

MR. EDWIN S. SMITH: Mr. Pressman and Mr. Day, so far as I am concerned, my interest in these questions has been confined as to whether or not the witness, or the previous witness to whom such questions were addressed, had knowledge that there had been alleged activities by strikers in connection with interference with the mails. It seemed to me that that evidence had a certain pertinence as it helped to paint the picture of whether or not there was a situation of

violations and one requiring extraordinary precautions as to law and order.

My own questions yesterday directed to the time when these episodes took place, and I think indicated, so far as I was concerned, that that was an important part of that whole picture.

MR. DAY: I can readily understand that.

MR. EDWIN S. SMITH: And how much need there was for extraordinary precaution. But I really think on the score of trying to impugn the particular individuals and representatives of the C. I. O., that the testimony is not appropriate. As the other Board member points out, the men are simply under indictment at the present time.

MR. DAY: That is true.

MR. EDWIN S. SMITH: I would prefer to see the whole hearing get moving, and let's drop this episode. The witness has testified he knew this particular individual is under indictment.

MR. PRESSMAN: The witness did not indicate that he knew.

MR. DAY: You know it, don't you?

MR. PRESSMAN: Do you want to go on the stand?

MR. DAY: No; I am asking you.

MR. PRESSMAN: I am not on trial.

MR. EDWIN S. SMITH: Just a minute, please. It seems to me entirely futile that this whole proceeding should resolve itself into a question of whether or not that man is under indictment. He is either under indictment or is not under indictment; and I don't know which.

MR. PRESSMAN: This witness does not have any personal information with regard to that situation.

MR. EDWIN S. SMITH: I would rather not see it tried out, so to speak, at any great length here, as to

whether or not he has personal knowledge. If he does not have personal knowledge as to whether this man was indicted I wish he would say so.

Do you know whether or not he is under indictment?

THE WITNESS: Well, that is a hard question to answer, Your Honor. I read it in the newspapers and I talked to the United States Marshal.

MR. PRESSMAN: That is all hearsay.

MR. DAY: He knows the Marshal.

MR. EDWIN S. SMITH: By hearsay, he knows the man is under indictment. Let's let it go at that.

BY MR. DAY:

Q. Who else came down and talked to the Chief of Police in your presence in behalf of the C. I. O.?

A. There were some men, and I don't know their names—Elmer Jordan has been in, and a man named Thomas. Those were about the only men whose names I recall.

Q. How often would they come in?

A. They did not come in very often. They had the idea we were against them.

Q. They thought you were against them?

A. That is what they said.

Q. Have you any idea how they ever got that impression?

A. Well, the Chief had had some pretty serious talks with them.

Q. Did you hear some of those talks?

A. Only about what they said about him telling them to stop blockading the roads and telling them to behave themselves and so on.

Q. Were they blockading the roads?

A. They had a plank across one of the roads at the start.

Q. And you saw that?

A. I did.

BY MR. DONALD WAKEFIELD SMITH:

Q. Was that within the city limits?

A. Yes, sir. But they removed it.

BY MR. DAY:

Q. It was not very long after the strike was declared that the matter of the men going back to work came up, was it? Or when did that come up?

A. Oh, I would say about a week or so later. There were about a dozen men showed up one day in the Chief's office and said they would like to introduce themselves, that they were the ones who wanted to go back to work. And they did not seem to have any program, or anything like that.

Q. They were men, so far as you could find out, who used to work for Republic?

A. That is right.

Q. And they were being held out?

A. Yes.

Q. And they wanted to go back to work?

A. They said they wanted to go to work.

BY MR. EDWIN S. SMITH:

Q. Do you remember the names of any of those men?

A. No, I do not.

BY MR. DAY:

Q. Of course, you knew from the situation out there that they could not go back to work so long as the pickets were there, without violence?

A. I knew this, that Republic was not open and until Republic showed some indication that they were going to open nobody could go back.

Q. When did this episode as to getting the food into the Republic plant, or office, come up?

A. That was along about June 11th.

Q. And you were consulted about that?

A. I was.

Q. And you suggested that Republic try to get the food in there by means of a truck?

A. That is right.

Q. Did you talk to any of the C. I. O. men about that proposition, or were you present when the talk took place?

A. I was.

Q. Who was with you? Was the Chief there?

A. Yes, the Chief.

Q. What was the attitude of the C. I. O. men about food going in?

A. Very antagonistic.

Q. Who expressed that attitude?

MR. DONALD WAKEFIELD SMITH: Just a minute, please. Well, that question is all right.

MR. DAY: Thank you.

A. Morton was the principal speaker.

BY MR. DAY:

Q. The same Morton?

A. Yes, that is correct.

Q. Who else?

A. He did practically all of the talking.

Q. What happened about getting the food in?

A. They got food in but how they got it in I don't know.

Q. Was Morton, the C. I. O. men, advised that there was only food enough in there to keep those men going for about five days?

A. Not that I know of.

Q. You were not there when that took place?

A. I was there all during the conference, yes.

Q. You talked about Carl Meyers, or you talked to Carl Meyers at various times at the Hotel Onesto, didn't you?

A. On three different occasions.

Q. Was that after Mr. Meyers was injured?

A. It was.

Q. And it was difficult or impossible for him to get out?

A. Mr. Meyers was able to get around. There was no question about that when I saw him.

Q. He was injured?

A. I knew he was shot; yes, sir.

Q. Shortly after the strike began?

A. Yes, but not seriously.

Q. And you talked to Mr. Meyers?

A. Yes.

Q. And you talked to Mr. Meyers about police protection for Massillon, didn't you?

A. Most of the talking—

Q. Answer the question, please. Did you talk to him about adequate police protection for Massillon?

A. It was discussed, yes.

Q. And you talked to him about protecting the men if they wanted to go back to work, didn't you?

A. Yes, I believe we did.

BY MR. DONALD WAKEFIELD SMITH:

Q. Who originated that conversation? Was it Mr. Meyers or you?

A. Mr. Meyers.

BY MR. DAY:

Q. How soon did you find out there were a great many men in Massillon who worked for Republic who wanted to go back to work?

A. About the 21st of June.

Q. At that time was there a delegation of them that came down to the City Hall?

A. There was.

Q. About how many of them?

A. Anywhere from 300 to 400.

Q. Did you know some of them?

A. Yes.

Q. Were they men you had known over the years in Massillon?

A. They were.

Q. Men who owned their homes?

A. That is correct.

Q. And had wives and children living there?

A. That is correct.

Q. And had been good citizens?

A. That is right.

BY MR. DONALD WAKEFIELD SMITH:

Q. Did they indicate in any way that they represented the desire of the majority of the employees of the Republic Steel?

A. Well, they said they did.

BY MR. DAY:

Q. As to the desires of the majority of the Republic Steel, when the plants were open how many did go back at Union Drawn?

A. As I understand it, there are about 350. I am not positive as to that figure.

Q. How many went back at the sheet mill?

A. The Republic seemed to take its time about getting the men in there; but when we left I think there were 2,300 men back there.

Q. Back to work?

A. Yes.

BY MR. DONALD WAKEFIELD SMITH:

Q. You have no personal knowledge whether the men there now are former employees of the Republic, have you?

A. No, sir.

Q. So far as you know, they may be persons who never worked in that plant before for Republic? Is that true?

A. That is true.

BY MR. DAY:

Q. Have you any knowledge along the same lines as

to how many men there were on the picket line who never worked for Republic before and never had anything to do with Republic?

A. I will say this, that that question was raised when the strike broke. In going over the picket line most of the faces were familiar.

Q. A lot of them were not?

A. I would not say a lot of them.

Q. You haven't any knowledge that the men who went back to work for Republic were not employees of Republic?

A. No.

Q. You have no knowledge there were any?

A. No.

Q. That is something that Republic would know and you haven't knowledge of it?

BY MR. DONALD WAKEFIELD SMITH:

Q. Just a minute. Would you know the face of every picket?

A. I knew a good many of them.

Q. But you did not know all of them?

A. No, I would not know all of them.

BY MR. DAY:

Q. There were some of them you had never seen around Massillon before, weren't they?

A. I would not say that I had not seen them around there before. I would say that they were not familiar.

BY MR. DONALD WAKEFIELD SMITH:

Q. Massillon is a town of 30,000, isn't it?

A. That is right.

MR. DAY: I am not implying that he knows everybody in Massillon, but I am implying he didn't know everybody on the picket line.

By the way, although the Board has ruled on this, to preserve the record I want to ask this question;

BY MR. DAY:

Q. You got here when?

A. Friday, July 16th.

Q. And you came at the instance of Mr. Hunt, Counsel over there?

A. Mr. Hunt and Mr. Lauter.

Q. Mr. Who?

A. Mr. Lauter.

Q. They are both Counsel for the National Labor Relations Board?

A. Yes.

Q. And you have been here ever since?

A. Yes.

Q. I will not ask you where you are because they would not let me ask you that.

Has your family been able to communicate with you during all of that time?

MR. HUNT: I object to that.

MR. EDWIN S. SMITH: Objection sustained.

MR. DAY: An exception, please.

BY MR. DAY:

Q. Has the City of Massillon been able to communicate with you during all of that time?

MR. HUNT: I object to that.

MR. EDWIN S. SMITH: Same ruling.

MR. DAY: An exception please.

BY MR. DAY:

Q. Who is running the City of Massillon now, with all you three men down here?

A. I don't know. We left so soon that I didn't find out.

Q. You don't know?

A. No.

Q. You have not found out since?

A. No, sir.

Q. What made you leave so precipitously?

MR. HUNT: I object.

MR. EDWIN S. SMITH: Objection sustained.

MR. DAY: An exception, please.

BY MR. DAY:

Q. Do you remember going to a meeting at the Conrad Hotel about the 28th of May? I think it was in the evening?

A. I do.

Q. Some of the Law and Order League were there?

A. That is right.

Q. Did Chief Switter make some remarks?

A. He did.

Q. In the course of those remarks did he in words or in substance say this: "I know that the law has been violated in many ways."

A. I don't remember him making that statement.

Q. Will you say that he did not?

A. I would.

Q. Did he say in substance this: "What can I do?"

A. I know that he did say, "What can I do with my force of 18 men and my equipment?"

Q. Did he in words or in substance say this: "I have been out along the picket line and there are a lot of niggers, Wops, and communists."

A. He didn't say anything about communists. I am pretty sure about that.

Q. Did he say anything about the others?

A. That there was some niggers and some foreigners there.

Q. Did he say in words or in substance on that occasion: "If I had authority I would clean up the whole blank bunch"?

A. No, he did not.

Q. Did he say that they ought to be run out of Massillon?

A. No, he did not.

Q. Did he say: "There is not a decent man or a good citizen in the entire picket line"?

A. No, he did not.

Q. About how many persons were present when the Chief did make his speech?

A. Oh, there were probably twenty-five there.

Q. Can you name a few of them?

A. Mr. Case and Mr. Lester, and C. E. Boyd.

Q. Is that all you can remember?

A. I can remember Mr. Lester and Mr. Boyd because before the meeting ever started they engaged me in an argument about the freedom of the roads, and I was kind of worked up about it. I believe Mr. Crawford was there.

BY MR. EDWIN S. SMITH:

Q. Who is Mr. Boyd?

A. He is an attorney.

Q. What was the matter with the roads at that time?

A. They complained, or Mr. Lester complained, that every time he wanted to go through the strike area with his automobile that his automobile was stopped and the pickets would ask him who he was and where he was going. And he said he was an American citizen, and a taxpayer, and that it was a public road and he had a right to go there if he pleased.

BY MR. DAY:

Q. So far as you know, he was all of those, wasn't he?

A. Well, I don't know whether he paid his taxes or not. Nobody does any more.

Q. You haven't brought down here any record tending to show that he does not pay his taxes, have you?

A. No, I have not.

Q. At this meeting here when this resolution or petition was brought down, you say that rather amused you.

A. That is right.

Q. You had a hard time to keep from laughing?

A. Yes.

MR. EDWIN S. SMITH: Before you go into that petition at any length, we will recess for a few minutes.

(Thereupon, a short recess was taken, after which the following occurred):

BY MR. DAY:

Q. Mr. Hardman, you were telling about the arrests that were made after the trouble on Sunday night, July 11th.

A. Yes, sir.

Q. About what time were those arrests made? Do you know that?

A. Of course, the only information as to this that I had is what the men told me themselves, that the arrests were made at any time a little before 11 o'clock,—that is, 11 p. m., until the next morning at perhaps 8 o'clock.

Q. Eight o'clock, you say?

A. Yes.

Q. And while you were not there at the time of the fight—that is, at the time the fight occurred, you did find out that it started at about what time?

A. About 11 o'clock.

Q. And at what time was it over? Do you know that?

A. No.

Q. You were not there?

A. No.

Q. Where were you at the time? I am not suggesting that you were there, but were you in Massillon?

A. No, I was not. My wife was away on a vacation and I thought things were quiet, and I would go to see her, and I was away.

Q. There is no objection to that, of course. Now, about your police force. You had a strike over there at Massillon, and it was a pretty serious strike, wasn't it?

A. It was a big strike.

Q. And you had men that wanted to go back to work, didn't you?

A. We did.

Q. And you had men on the picket line?

A. We did.

Q. And you knew, did you not, or you believed that if there was a meeting between the men who wanted to go back to work and the picket line that there would be trouble? That is right, isn't it?

A. We did.

Q. When the back-to-work movement was organized and they wanted to have a meeting, I think those who were instrumental in that project were discouraged from having the meeting, were they not?

A. They were called in and consulted about that. The fact of the matter is that one of the members of the back-to-work committee went up to the park to assist in the discouragement.

Q. What you had in mind was that if they had these back-to-work meetings and the pickets found out about it, that there might be trouble?

A. That is right—at that particular time.

Q. And that trouble would come from the resistance by the pickets of the movement, of the back-to-work movement? That is right, isn't it?

A. That is right.

Q. And you said this morning that you thought the trouble might result in bloodshed, or that bloodshed would come by the resistance from the pickets to the men who wanted to go back to work?

A. Well, it would come from both sides. I would not commit myself on it that it would come from the resistance of the pickets.

Q. And the large number of men who wanted to go back to work had worked there before?

A. There were quite a few in the crowd that I knew were employed at the Republic.

Q. And they were men you told about a few minutes ago?

A. That is right.

Q. I do not want to ask you about them again. You had an inadequate police force to meet this situation, did you?

A. That is correct.

Q. There is no question about that, is there, Mr. Hardman?

A. I don't think so. For some time the Chief has been trying to get the police force built up.

Q. In Massillon?

A. Yes.

Q. Before this trouble happened?

A. Yes.

Q. You did not have much of a police force, with those 30,000 people there, and with the mills, even without a strike?

A. No; I will admit we did not.

Q. With only 18 men?

A. Yes.

Q. And five out of the eighteen working inside?

A. Yes.

Q. And that left thirteen?

A. Yes.

Q. And the Chief said yesterday they had one shift of five men and two shifts of four men each?

A. Yes.

Q. So you believed they ought to have more policemen to meet this emergency, didn't you?

A. That is right.

Q. And you said there was an emergency?

A. Yes.

Q. And the emergency was due to the fact that there was a strike and the pickets and the men wanting to go back to work?

A. Yes.

Q. Did you take the stand at these various conferences—and I will not go over all of them—that there should

be an increase in the police force?

A. I believe I did, subject to certain limitations, and that the men had to be qualified, and they should be used downtown, and not that somebody should crack the picket line. That is the expression we used over and over again.

Q. What did you mean by that?

A. Go down and drive the pickets out.

Q. Go down and get into a battle with the pickets?

A. Yes.

BY MR. DONALD WAKEFIELD SMITH:

Q. Peaceful picketing is permitted under the law of the State of Ohio to your knowledge, isn't it?

A. To my knowledge, it is.

BY MR. DAY:

Q. Some suggestion has been made about the injunction hearing in Canton. I would like to read into the record the journal entry in that case. The injunction has now been made perpetual.

MR. HUNT: What is that?

MR. DAY: I would like to read into the record the journal entry in the case of Mr. Samuel H. Smith et al. v. Amalgamated Association of Iron, Steel, and Tin Workers of North America, et al.

Mr. Hardman said the situation changed somewhat after a preliminary injunction was granted. "I would like to read the permanent injunction that has now been granted. We do not know the exact date, but we have a copy of it. I would like to read it in the record.

MR. HUNT: Is that a certified copy?

MR. DAY: Yes, it is.

MR. HUNT: What is the purpose of reading it into the record?

MR. DAY: To show the nature of the injunction that was granted, and as tending to show the situation that existed which, after a full hearing, made the granting of the injunction necessary and proper.

MR. HUNT: What has that to do with the strike situation in Massillon?

MR. DAY: It has a great deal to do with it. It deals with the strike situation in Massillon.

MR. HUNT: What has that to do with the duties of the City Solicitor of Massillon?

MR. DAY: It is not only a question in this case of what the duties of the City Solicitor are.

MR. HUNT: I submit that on direct examination the subject of this injunction suit was not raised. It seems to be quite far from anything brought out on direct, and I object.

MR. EDWIN S. SMITH: Is it your purpose to put in this entire decree?

MR. DAY: The injunction part of it. There is only a page or two.

MR. EDWIN S. SMITH: Why don't you simply introduce it in the record?

MR. DAY: I would like to read it for the Board so that the Board may have it in mind as we go along taking the testimony..

MR. EDWIN S. SMITH: Well, go ahead.

MR. DAY: I will read it:

"S. H. Smith et al.,
Plaintiffs,

v.

Amalgamated Association of
Iron, Steel & Tin Workers
of North America, et al.,
Defendants."

MR. DONALD WAKEFIELD SMITH: Are you reading from a properly certified copy of the court record?

MR. DAY: That is what I am reading from. I certainly do not want to read anything that is not properly certified.

MR. DONALD WAKEFIELD SMITH: I do not accuse you of that.

MR. DAY: I only saw it a couple of minutes ago myself.

MR. DONALD WAKEFIELD SMITH: To your knowledge, is this the signature of the clerk of the court?

MR. DAY: I don't know the signature of the clerk of the court down in Canton, Ohio.

MR. DONALD WAKEFIELD SMITH: I think it is quite important if you are reading something into the record, to know that it is a true, correct copy.

MR. DAY: If it purports to be certified it is admissible in any court.

MR. DONALD WAKEFIELD SMITH: Not in this court unless it is a true and correct copy.

MR. DAY: It appears to be certified by the clerk of the court of Stark County.

MR. HUNT: Is there a notary's certificate?

MR. DAY: When you ask if I know his signature, of course, I do not know it.

MR. EDWIN S. SMITH: Can you defer the reading of that for just a moment?

MR. DAY: Certainly.

MR. EDWIN S. SMITH: We just received a message which requires the Board to recess for a few minutes.

(Thereupon, a short recess was taken, after which the following occurred):

MR. HUNT: I would like to make a statement about that paper.

This injunction decree related to Canton, as I understand it, and was brought by a man in the Canton plant and referred only to the Republic Steel Corporation in Canton. But we are discussing now Massillon and not Canton.

MR. DAY: It is county wide. The injunction was a county-wide injunction, and I think the record included evidence as to both Canton and Massillon, didn't it? It was a county-wide injunction.

MR. EDWIN S. SMITH: I would think if the injunction applied primarily to Canton, and was brought by Canton workers, that the company might prefer to introduce it in connection with hearings that might be held on the Canton situation.

MR. DAY: This was a county-wide injunction.

MR. DONALD WAKEFIELD SMITH: Does it specifically name Canton and Massillon plants?

MR. DAY: The second one says: "From obstructing any streets, or highways within the County of Stark, or within the City of Canton, Ohio, or interfering with persons in the lawful use of said streets and highways."

MR. EDWIN S. SMITH: Was it brought by a group of Canton workers?

MR. DAY: Yes, it was.

MR. EDWIN S. SMITH: Don't you think it would be advisable to defer it until that time?

MR. DAY: I think it is county wide.

MR. EDWIN S. SMITH: Well, you may go ahead. We have said you may read it.

MR. DAY: I will read it:

"State of Ohio,
Stark County, ss:

In the Court of Common Pleas
Case No.

S. H. Smith, et al.,
Plaintiffs,

vs.

Amalgamated Association of

Iron, Steel & Tin Workers
of North America, et al.,
Defendants.

Journal Entry

"This day this cause came on to be heard upon the petition of the plaintiffs, answer of the defendants, and the evidence, and was submitted to the court. On consideration whereof the Court find on the issues joined for the plaintiffs that the plaintiffs are entitled to work in the plant of the employer, the Republic Steel Corporation, without interference from the defendants, their agents, members or employees or person associated with them, or their aiders and abettors.

"It is therefore considered and decreed that the defendants, and each of them, be and they are hereby perpetually enjoined:

"(1) From arming, or permitting any of their pickets being armed with clubs, pipes, baseball bats, blackjacks, knives, guns or other weapons;

"(2) From obstructing any streets, or highways within the county of Stark, or within the city of Canton, Ohio, or interfering with persons in the lawful use of said streets and highways;

"(3) From inducing by intimidation, threats, abuse or violence, any person who is now, or may hereafter become an employee of the Republic Steel Corporation, to leave plaintiffs' employ; and from preventing, by intimidation, threats, abuse or violence, any person from entering into employment with the Republic Steel Corporation, in the County of Stark;

"(4) Said defendants are further restrained from in any manner interfering with the rights of the plaintiffs and those similarly situated from entering the plant of the employer for the purpose of working,

or in any manner interfering or preventing those now in the plant to leave said plant; and said defendants are restrained from interfering with the free access of the plaintiffs and those similarly situated to the employer's premises, and with their free return to their homes, boarding places or other places to which they may desire to go.

"(5) From damaging any of the property of the plaintiffs, or those whom they represent.

"Coming now to the question of fixing and determining the number of pickets that may be on duty at any time during the continuation of this strike; the Court fixes the number as follows:

"At any of the gates and entrances of the plants of the Republic Steel Corporation in or near the City of Canton, Ohio, and such other places which afford ingress and egress to the employees, there shall be not more than six (6) pickets, except at the main gate on 8th Street, N. E. in the City of Canton, Ohio, near the office, where there may be ten (10) pickets.

"As to the number of pickets at other points outside those above enumerated no special rule can be laid down in detail, but at no place or point may the number be so great as to prevent access to the plants, or in itself to constitute a threat of physical force. This order with respect to the number of defendants' agents or pickets can be amended when necessity is made to appear.

"It is further considered that plaintiffs recover from the said defendants, their costs herein expended, taxes at————————Dollars.

(Signed) George N. Graham,
Judge."

And it is certified.

MR. EDWIN S. SMITH: I think it is quite obvious that pertains only to the Canton situation.

MR. DAY: I do not want to say professionally, but we have reasons to believe that the case was county wide.

MR. EDWIN S. SMITH: Obviously, I cannot decide that point here. I agree with Mr. Smith that specific reference as to pickets seems to refer only to the Canton situation.

BY MR. DAY:

Q. Now, about this meeting when there was a rumor that the rubber workers from Akron were coming down.

MR. HUNT: Is this document offered as an exhibit?

MR. DAY: I will offer it as an exhibit. We would better have it marked first.

MR. EDWIN S. SMITH: I think Counsel wants a minute to examine that document.

MR. HUNT: Yes, I would like to do that.

Is this admitted in evidence? I would like to ask for a ruling on the record.

MR. EDWIN S. SMITH: Do I understand you object?

MR. HUNT: No, I do not object.

MR. EDWIN S. SMITH: It may be admitted.

(The document referred to was thereupon received in evidence and marked "Respondent's Exhibit No. 2.")

BY MR. DAY:

Q. Coming now to the assembly of persons in Massillon in response to the rumor that the rubber workers were going to come from Akron, what was the date of that?

A. That was June 25th, I believe.

Q. What time of day was it?

A. They called me about 6:30 in the evening. About 7 o'clock the first alarm was rung.

Q. Who called you?

A. The City Prosecutor.
Q. Of what?
A. Of Massillon.
Q. The City Prosecutor?
A. That is correct.
Q. You have a municipal court over there, have you not? I am just trying to figure out the difference between the City Prosecutor and the City Solicitor.
A. I appointed him to take care of the police work.
Q. He is in your office?
A. Yes.
Q. He is one of your assistants?
A. Yes, sir.
Q. He first told you about it?
A. Yes.
Q. There was a fire alarm?
A. Yes.
Q. Did the bell ring?
A. Yes.
Q. Did the American Legion turn out?
A. Some of them did.
Q. Some of them?
A. Yes.
Q. I think you said in answer to Mr. Hunt, that others were there before the bell was rung?
A. That is correct.
Q. Where did they come from?
A. I don't know.
Q. They came before the bell was rung?
A. That is right.
Q. How many were there before the bell was rung—that is, the American Legion signal?
A. I would say there were around 400 men out in front of the police department.
BY MR. DONALD WAKEFIELD SMITH:
Q. Did you recognize any of those men as being em-

ployees of the Republic Steel Corporation?

A. Oh, yes.

BY MR. DAY:

Q. There were a lot of them who were not Republic Steel employees, were there not?

A. I couldn't answer that. There were some of them. I don't know whether they are employed, but there were some there I know are employed by Republic.

Q. Before that there were widespread newspaper accounts as to an invasion of Youngstown by the rubber workers?

A. Yes.

Q. And that was published in the newspapers?

A. Yes.

Q. In Youngstown?

A. Yes.

Q. And in Canton and Massillon?

A. Yes.

Q. And, so far as you know, they were available to readers in Canton and Massillon?

A. Yes.

Q. Did the Chief make a speech that day?

A. He made two of them.

Q. Did he make them to the crowd both times?

A. Yes.

Q. What did he say?

A. Well, I don't know what he said the first time. He said something about they didn't have any definite news as to what was going on, that it was more or less indefinite. Then I went inside. The second time I was back in the office with the National Guard officers when he went out and addressed the crowd and dispersed.

Q. You didn't see any reason why the rubber workers from Akron should have a right to invade Massillon, did you?

A. No.

Q. If they had invaded Massillon you would have been in favor of repelling them?

A. Absolutely. My idea was not to send anybody north of town, not to create a battle there, that if they did come in there were only two places they would come, and one would be the Union Drawn Steel Mill and the other would be the Republic, and in either place they could be surrounded and handled.

Q. If the rubber workers came from Akron down into your town you would be in favor of fighting it out?

A. I was in favor of arresting them and putting them in jail.

Q. Did you know whether or not for some time there has been a group of rubber workers in Akron who have been going around visiting the surrounding cities and causing and creating violence?

A. Not since the Youngstown episode.

Q. I want to ask you this question: At any rate, at the time the crowd was dispersed and no damage was done? Is that right?

A. That is right.

Q. I want to ask you about the morning meeting before the policemen were selected. That took place in your office or in the mayor's office?

A. In the mayor's office.

Q. At that meeting was it finally decided to have special police?

A. That is right.

Q. Carl Meyers was not at that meeting, was he?

A. No, he was not.

Q. At the luncheon meeting, where the statement was made that it had finally been decided that extra policemen would be added, and when Carl Meyers made a speech, that was at a luncheon following the morning meeting at which he was not present, wasn't it?

A. That is correct.

Q. And Captain Curley and yourself selected the policemen? Is that right?

A. I didn't have anything to do with it.

Q. You swore them in?

A. I swore them in.

Q. You were there when they were selected?

A. I looked out a few times and saw them being selected, and I would go back into the office and I waited until they had them all ready.

Q. You said you did not believe an excitable man should be put on that kind of an emergency police force?

A. That is right.

Q. You ought to have a man with a cool head to take care of almost any emergency?

A. Yes.

Q. Did you communicate this idea to Captain Curley or anybody?

A. I didn't say anything to Captain Curley.

Q. Did you see the men who were selected for this service?

A. I did.

BY MR. DONALD WAKEFIELD SMITH:

Q. As to the employment of these special police, did you think that by reason of the fact they were employees of the Republic Steel Corporation it might aggravate their excitement?

A. I felt that way but I did not refuse to take a man who I would consider as being level-headed, or I wouldn't refuse, had I been permitted to pick them.

Q. Even if he worked for Republic?

A. Even if he worked for Republic. But I would have preferred men who did not work for Republic.

BY MR. DAY:

Q. If anything had broken out on that picket line before the troops came, unless you had extra policemen Massillon could not have dealt with the situation, could it?

A. I did not feel we could have dealt with it, no—if anything had broken out.

Q. And it would be just a question of something breaking out, of whether something did break out or did not break out?

A. That is right. It did not look like anything would break at that time.

Q. And the sheriff, what was his attitude about this whole subject of police protection, and so on; what was the attitude of Joe Nist, the sheriff of Stark County?

A. Of course, he made the statement he wanted to enforce the law. And most of the time he had one man on a motorcycle down there.

Q. He did not have many men, did he?

A. No, he was trying to add them, the same as we did.

Q. In other words, he did not have men enough, and you did not have men enough?

A. That is right.

Q. On the night of the riot, or the fight, or whatever it may have been, or the trouble there, you found out that there were some regular policemen from Massillon who were there with some of these men; is that right?

A. That is right. I could not tell you how many on each side. I was prepared to investigate that on Thursday when I left for Washington.

Q. You did not complete that investigation?

A. I went down there the Monday after it started and the place was so full up with gas I couldn't do much about it. And I knew I had to clean out the jail and get rid of these 160 men so I decided it was best to do that.

Q. Did you make an investigation to the extent of talking to your policemen as to what occurred?

MR. HUNT: I object to that. Mr. Hardman was not present. I did not question on this on direct.

MR. DAY: I don't think that makes any difference.

MR. EDWIN S. SMITH: I think if he talked with the policemen he may testify on that point.

MR. DONALD WAKEFIELD SMITH: What incident is this that you are referring to?

MR. DAY: Sunday, July 11th.

MR. DONALD WAKEFIELD SMITH: And he said he was out of town.

MR. DAY: Yes, he was out of town.

BY MR. DAY:

Q. Have you completed your investigation on that?

A. No, sir; I have not.

Q. Until you complete your investigation would you rather not testify about it?

A. That is correct, because I have conflicting reports.

Q. All right, then. I will not ask you about it.

BY MR. DONALD WAKEFIELD SMITH:

Q. Your investigation into this incident has to do only with your prosecution of these individuals, doesn't it?

A. No. I am going to attempt to find out, if I can, from the officers and from all the surrounding facts just how it started, so that if the city is ever involved in it in the future the city will be prepared to meet it.

Q. Now, you are going ahead with that investigation when you get back home?

A. That is right.

Q. I see. As a lawyer, I was going to ask you about it, but now I will not ask about it.

A. I can't give you any definite information.

Q. I have read this petition and read the signatures, and, Mr. Hardman, it is quite difficult for me to see anything to laugh at about this.

MR. EDWIN S. SMITH: What is that petition?

MR. DAY: This is a petition to the mayor, sheriff, and Chief of Police, introduced in evidence by the opposing side.

MR. EDWIN S. SMITH: He has testified to the

particular section about which you asked. If you want to question him about the whole thing—

MR. DAY (Interposing): I would like to question him about the whole thing.

MR. EDWIN S. SMITH: We don't have to stop and listen to the whole document. Let him read it.

MR. DAY: I wanted to ask if certain things are true. It says, "without specific indictment as to the responsibility therefor, private property in Massillon is no longer inviolate, destruction of private property has taken place with impunity, acts of vandalism has occurred." Those are generalities.

BY MR. DAY:

Q. "Telephone cables have been cut," is that right?

A. There was one telephone cable cut and the police line was cut, or pulled down.

Q. Did you discover who did it?

A. Never discovered them.

MR. DONALD WAKEFIELD SMITH: It is a petition signed by whom?

MR. DAY: It is a petition to the Mayor and Chief of Police and Sheriff of Stark County, and it is signed by a great number of individuals and institutions, and I will acquaint the Board with it.

MR. EDWIN S. SMITH: One or two will be sufficient.

MR. DAY: I will do so.

MR. EDWIN S. SMITH: All right.

BY MR. DAY:

Q. Was that telephone cable running into the Republic Steel Company that was cut?

A. It was; yes, sir.

MR. EDWIN S. SMITH: Will you read the first part prior to the telephone cable cutting?

MR. DAY: (Reading) "Without specific indictment as to the responsibility therefor, private property

in Massillon is no longer inviolate, destruction of private property has taken place with impunity, acts of vandalism have already occurred, telephone cables have been cut."

MR. EDWIN S. SMITH: I would like to ask Mr. Hardman what he thinks of those general characterizations?

THE WITNESS: They weren't true. They were not true.

BY MR. DAY:

Q. Now, getting down to specific characterizations, or statements: "Telephone cables have been cut, explosives have been transported about the city"—

A. (Interposing) That isn't so. They can't prove.

Q. Dynamiting has been resorted to.

A. There was a blast of dynamite set off outside the city limits.

Q. They blew up a culvert.

A. That occurred after this petition was presented. Somebody dropped a stick of dynamite in the culvert there. I believe it was about June 30th.

MR. DONALD WAKEFIELD SMITH: You say this was outside the city limits, anyway? It would not be in the jurisdiction of the police at the time of the City of Massillon?

THE WITNESS: Both occurred outside.

BY MR. DAY:

Q. If somebody blew up something ten or fifteen feet outside of the City of Massillon, you would be more or less concerned with it, would you not?

A. I would.

MR. DONALD WAKEFIELD SMITH: Was it ten feet outside of the city limits, to your knowledge, or quite a distance?

THE WITNESS: The big blast was quite a distance outside the city. The little blast was probably

ten or fifteen feet outside the city.

MR. DONALD WAKEFIELD SMITH: That didn't occur on the 4th of July?

THE WITNESS: It occurred around about that time, because some of the people thought it was a big firecracker.

MR. DONALD WAKEFIELD SMITH: It seems the principal incident in connection with the explosion occurred subsequent to the petition?

THE WITNESS: The first occurred prior.

MR. EDWIN S. SMITH: The first explosion occurred prior?

THE WITNESS: Yes.

BY MR. DAY:

Q. "Men armed with clubs have forcefully restrained entrance of workers and others to plants"?

A. There were pickets with clubs.

Q. And some of them in the city limits?

A. Very few.

Q. Mail has been interrupted. That was true, wasn't it?

A. That was true.

Q. That is what I am asking you.

A. That is a long story.

Q. If it is true it doesn't make any difference how long a story it is, does it?

A. There are certain factors. When I say it is true, it doesn't tell the whole story.

Q. It says citizens have been searched and other citizens have been dragged from their homes and beaten, and the general safety of the city is in peril.

A. None that I know of.

Q. Was people dragged from their homes?

A. Not that I know of.

Q. Were men beaten up?

A. That is right.

Q. Joe Morton was in that?

A. I do not believe Joe Morton was in that.

Q. Was there another Morton down there?

A. There were two of them.

Q. The quotations from the Supreme Court of Ohio decision kind of provoked some mirth.

A. That is right.

Q. Is that because you laugh generally at its decisions, or this particular one?

A. I said with all due respect to the Supreme Court, I knew no bank would buy a lawsuit such as that as they were trying to shove over.

Q. The Massillon Welfare Association is the first signature on the petition.

A. I never saw the signatures. I heard people were asked to sign.

MR. DONALD WAKEFIELD SMITH: Asked to sign by whom?

THE WITNESS: Somebody circulated that, the Law and Order League.

BY MR. DAY:

Q. Do you at this time, right now, on that witness stand, make the charge or statement that some individual or organization signed this statement under compulsion without knowing what was in it?

A. I would not say under compulsion. I would say they did not know what was in it. That is the rumor that came to me.

Q. That is the rumor that came to you?

A. That is the rumor that came to me; yes, sir.

MR. EDWIN S. SMITH: You say there were no signatures?

THE WITNESS: I never saw anything but the typewriting.

MR. EDWIN S. SMITH: What did you see?

THE WITNESS: What he has there.

MR. EDWIN S. SMITH: Were there signatures on it, would you say?

THE WITNESS: No.

MR. DONALD WAKEFIELD SMITH: Do you know there was an original?

THE WITNESS: Just what I have been told.

MR. DAY: A petition was introduced by Counsel on the other side of the table. They offered it. We don't know. Maybe Mr. Hunt knows.

MR. EDWIN S. SMITH: You never saw the petition but you did see the petition in typewritten form?

THE WITNESS: I saw it in typewritten form in the Chief of Police's office.

MR. EDWIN S. SMITH: There were no signatures appended to it at that time?

THE WITNESS: The copy I saw was typewritten.

MR. EDWIN S. SMITH: That was not the original with the signatures?

THE WITNESS: No, I don't know whether they had the original.

MR. EDWIN S. SMITH: The fact is whether or not there were signatures he has never seen them.

MR. DAY: It has been offered in evidence by the other side. They think it is genuine.

MR. DONALD WAKEFIELD SMITH: Do you think it isn't?

MR. DAY: I think it is. The Board raised the question. I did not.

MR. DONALD WAKEFIELD SMITH: Let Mr. Hunt tell us.

MR. HUNT: This is a copy of the petition given to the Chief of Police, the only copy that he knew of at the time when he handed it over to me in his office. The original, he does not know where it is, but thinks prob-

ably Mr. Case of the Chamber of Commerce may have it.

MR. EDWIN S. SMITH: Was this a copy made by the Chief?

MR. HUNT: No, given to the Chief by this committee, and he in turn gave it to me. That copy was presented to the chief and turned over to me. He said this was the only copy he had.

MR. EDWIN S. SMITH: Mr. Hardman, will you leave the stand and let us recall the Chief and find out about the petition?

THE WITNESS: Yes.

(Witness temporarily excused.)

STANLEY W. SWITTER

was thereupon recalled as a witness for the National Labor Relations Board, and, having been previously sworn, testified further as follows:

Direct Examination

BY MR. EDWIN S. SMITH:

Q. Have you examined this exhibit which Counsel holds?

A. Yes.

Q. Do the typewritten signatures correspond, as far you recall, with the written signatures you saw on the original petition?

A. Yes.

Q. Have you examined it from that point of view?

A. Yes, they had several copies and gave one to me and one to the Mayor and one to the Chief Deputy Sheriff France.

Q. This original petition,—the names now appear in

typewriting on this copy, but on the original petition they were written in ink?

A. Yes.

Q. I ask you again, to the best of your recollection, were the same names on the original petition that now appear here?

A. Yes.

MR. EDWIN S. SMITH: I think that is sufficient.

MR. DAY: I may have the right to cross-examine Mr. Hardman about it?

MR. DONALD WAKEFIELD SMITH: Are you questioning its authenticity?

MR. DAY: No, I have never questioned its authenticity.

MR. DONALD WAKEFIELD SMITH: Why cross-examine?

MR. DAY: To examine him upon the proposition there was something about it that made him laugh.

MR. DONALD WAKEFIELD SMITH: That is not proper cross-examination.

MR. EDWIN S. SMITH: I think I should handle this since I started ruling on it.

MR. DAY: I wish you would.

MR. EDWIN S. SMITH: Mr. Day, the purpose of recalling the Chief was to find out what he knew about this copy of the petition. I intended immediately to recall Mr. Hardman.

MR. DONALD WAKEFIELD SMITH: I beg your pardon, I thought you wanted to cross-examine this witness.

MR. DAY: I have cross-examined the Chief as much as I want to. Unless he says something new I am through with the Chief.

(Witness excused.)

RICHARD B. HARDMAN

thereupon resumed the stand on behalf of the National Labor Relations Board, and, having been previously sworn, testified further as follows:

Cross Examination (Continued)

BY MR. DAY:

Q. The names on that petition are some of the oldest and best citizens in Massillon, aren't they?

A. They are some of the oldest; yes, sir.

Q. And some of the best?

A. And some of the best, also.

Q. The Massillon Welfare Association signed it.

A. I don't know whether they did or not. As far as I know, as I said before, I didn't know under what circumstances.

Q. The Massillon Kiwanis Club; the Board of Lady Managers of the Massillon City Hospital; the Chairman of the Retail Trades Division, Massillon Chamber of Commerce; the Massillon Grocery and Meat Dealers Association; American Legion, and it says, "A motion was duly made and seconded that we enter into this petition believing that it sets forth the duties of our law enforcement officers, asking that they carry out their duties, and because this petition does not take issue with the questions involved between employers and employees. The executive committee of the Massillon Post No. 221, the American Legion, by C. W. Brown, Chairman."

Does that make you laugh?

A. You misunderstood about the laughing part of it. That was up in the original petition.

Q. You don't laugh at the signatures?

A. They weren't read to us.

MR. DONALD WAKEFIELD SMITH: Explain why you laughed.

THE WITNESS: Let me have the petition.

MR. DAY: Yes, you can have the petition.

THE WITNESS: You probably want to get some of these things anyway, and you are glad to give it to me.

BY MR. DAY:

Q. I am glad to give it to you anyhow if you want it.

A. There is a statement in here that the mayor should put on additional police and pay them, and the only way that I thought at the time, or I knew at the time, was that this thing was highly impracticable, and that it was a grandstand play, and that morning I accused them of it.

Q. Accused who?

A. Franklin Maier.

Q. He is a lawyer for what?

A. The back-to-work movement.

MR. EDWIN S. SMITH: That is spelled M-a-i-e-r?

MR. DAY: That is right. That isn't the one you have in mind?

THE WITNESS: I smiled at the statement "Like a storm in the night season," and also the fact that dynamite was being transported throughout the city. I defy them to prove it.

BY MR. DAY :

Q. Right now you are only laughing or—you are neither laughing nor smiling or doing anything of that kind at the signers of that petition?

A. Not at the signers; no, sir.

MR. EDWIN S. SMITH: What was the nature of the rumors that reached you as to how some of these signatures were obtained?

THE WITNESS: The same way signatures are obtained to any petition, you just go up and ask a man if he will sign a petition, and he don't read it, and signs it. That is common knowledge that people do it.

MR. EDWIN S. SMITH: Were certain rumors brought to you in connection with any signatures of any individuals or organizations, or did it simply have reference to the general method of obtaining signatures?

THE WITNESS: Just the general method.

BY MR. DAY:

Q. Can you name any signer whose signature was procured to that petition by just going up and asking him to sign it?

A. Not to my own knowledge.

MR. DAY: That is all.

Rédirect Examination

BY MR. HUNT:

Q. But this particular statement that I am about to read from the petition causing you to smile: "Recent statements and announcements from the officials charged by law with the duty of preserving peace within the city are indicative of the intention to continue to disregard the present emergency."

A. That is right.

Q. Did you laugh at that?

A. Well, I can't say I laughed at that particular statement.

Q. Did you have the intention to continue to disregard the present emergency?

A. No, sir; we never had disregarded it.

Q. You stated that you had an inadequate force to deal with the strike situation if any serious trouble arose; is that right?

A. That is correct.

Q. But until the night of July 11th you did deal with the situation adequately, didn't you, as a matter of fact?

A. That is correct.

MR. HUNT: That is all.

MR. DONALD WAKEFIELD SMITH: May I see the petition?

MR. DAY: That is all.

MR. DONALD WAKEFIELD SMITH: Mr. Hardman, may I ask you to look at the names on that petition, if you please? Just look them over.

THE WITNESS: Yes.

MR. DONALD WAKEFIELD SMITH: I think you have gone far enough on the question I desire to ask. To your knowledge, are any of the individuals who signed that petition, or alleged to have signed that petition, members of the Law and Order League?

THE WITNESS: Well, I will have to look at the signatures again to be sure.

There are some, yes.

MR. DONALD WAKEFIELD SMITH: Is the name of Mr. Haley contained on that petition?

MR. DAY: I believe the party the Board is referring to is Lincolnhaley.

MR. DONALD WAKEFIELD SMITH: Some are members of the Law and Order League?

THE WITNESS: Some of these are women signers whose husbands are members.

MR. DONALD WAKEFIELD SMITH: Are there any women signers whose husbands are employees of the Republic Steel?

THE WITNESS: There are.

MR. PRESSMAN: May I have one or two questions?

MR. EDWIN S. SMITH: Yes, sir; but I would like to interpose one question first.

Mr. Hardman, you seem to be a very candid and very intelligent witness:

THE WITNESS: Thank you.

MR. EDWIN S. SMITH: For that reason I want to ask you a rather general question. Before I do so

I want to make a statement before I ask the question. There has been quite a lot of testimony and talk about the back-to-work movement, the fact that employees of Republic Steel Corporation desired to return to the jobs, in what numbers, we don't know, but there have been statements a considerable number of employees wished to return to their jobs.

Now, in connection with the back-to-work movement, I think we should understand the Board is only concerned with the question whether the Republic Steel Corporation itself, or through agencies working with it, took such steps to bring people back to their jobs as might constitute unfair labor practices under the Act. Now, you can't testify specifically as to certain matters, I know, in which the Board is interested as to whether these things really occurred, but having in your mind the background of the Board's interest in these facts, I would like you to state what impression this whole back-to-work and Law and Order movement made on you in this sense, did it strike you as something that sprang from pressure put on these people by workers, or individual workers anxious to return to their jobs because deprived of a livelihood, or whatever reason, or did it strike you as a movement that had part of its impetus from some other source?

The reason I ask that is particularly you testified in response to some questions you thought these people were interested in the $40,000 pay roll. I would like for you to comment on that.

THE WITNESS: I would like to say that my opinion of the back-to-work movement is that it was more or less spontaneous, but I have always felt the business men's movement was not purely spontaneous.

MR. EDWIN S. SMITH: You have felt—

THE WITNESS (Interposing): That the back-

to-work movement had no connection with the Republic Steel Corporation. That is, I suppose, they were talking to officials of Republic and asking when the plant was going to reopen, and when they could go back to work, but I don't assume the Republic was putting pressure on them.

MR. EDWIN S. SMITH: You have no evidence of Republic officials talking to them?

THE WITNESS: Yes.

MR. EDWIN S. SMITH: The business men movement you think had other motives and not a disinterested desire not to see people deprived of work?

THE WITNESS: Yes.

MR. EDWIN S. SMITH: How would you characterize their motives?

THE WITNESS: The fact they had it started that Republic would move out. I don't know who told them that, but that was the statement that was made, and they were continually statements unless something was done we would lose the backbone of our industry, and so forth and so on.

MR. EDWIN S. SMITH: In other words, you think they were fearful the industry would be lost and that would have economic repercussions on their business?

THE WITNESS: Yes, sir.

MR. EDWIN S. SMITH: That is all.

Recross Examination

Q. (By Mr. Pressman) Mr. Hardman, in response to a question by Mr. Day you indicated that one visit of yours around the picket lines you noticed the first or second day of the strike men ranging from 100 to 165. Were they all located at one place, or ranged around at various entrances?

A. They were ranged around the entire plant.

Q. Over how much an area?

A. Two and a half to three miles.

Q. About how many entrances were there?

A. Well, there were really three entrances, but there were some vacant stretches, by vacant I mean there was no fence and a man could have gone in and out from there.

Q. In connection with any of your visits to the picket lines what would you say was the largest number of pickets that you saw stationed in any one place, excluding any of these emergency situations in connection with the riot and things of that description?

A. I would say there would be about 20 at one place.

Q. That would be the most collected at any one place?

A. That would be the most collected at any one place.

Q. Before you indicated you would prefer not to be questioned in connection with the riot that occurred the night of July 11th, but I would like to ask you one or two questions as to your examination of the 160 men in the jail following the night of July 11th. I assume you have completed your investigation with regard to those men?

A. That is correct.

Q. Who were in jail at that time. As I remember, you mentioned on Monday, July 12th, you determined rather than investigate the situation at the place of the riot that you would prefer to return and question the people who were in the jail and that there were about 150 to 165 men in the various jails, city and county jails, men who had been arrested in connection with that riot. For how long a period were those 150 to 165 men in the jails?

A. Some of them, I don't know just when they came in. I testified they came in jail anywhere from one o'clock the night of the 11th, until eight o'clock the next morning, the 12th. Then we began releasing them as fast as we could on Monday and there were some in there Thursday morning, there were four in there Thursday morning. We

worked until two thirty o'clock Monday, to one o'clock Tuesday and one o'clock Wednesday.

Q. Did any counsel purporting to represent these men appear before you?

A. They did.

Q. To see them?

A. Yes, sir.

Q. Did they see them?

A. I don't know.

MR. DAY: I don't want to be technical, but what could that have to do with Republic?

MR. PRESSMAN: I would like to show it anyway.

MR. EDWIN S. SMITH: Let us hear him.

MR. DAY: I beg your pardon.

MR. PRESSMAN: It is only intended to complete the picture surrounding the situation in Massillon as to the treatment the strikers received in connection with their activities, which we understand they were entitled to carry out under the National Labor Relations Act, or any other law of the station and nation, and that the activities of the police and local authorities was part and parcel of the entire picture of what occurred in these localities.

MR. DAY: This is a matter between the governing officers of the City of Massillon and the strikers entirely.

MR. EDWIN S. SMITH: We have gone pretty liberally into the whole situation in the town as it affected the town. I am willing to have Mr. Pressman ask it.

MR. DAY: All right, note an exception.

Q. (By Mr. Pressman) In connection with the 150 men, taking that arbitrary figure, who were examined, you said yesterday only about 15 were actually charged subsequently following your examination.

A. I don't believe I testified to the figure.

Q. About how many were actually charged?

A. About ten.

Q. About ten out of the 150?

A. That is right.

Q. With regard to arrest, would you say that they were arrested when you examined them and they told you, on the scene of the riot, or where?

A. Assuming they were telling the truth, they were arrested at places other than the scene of the riot.

Q. Such as what?

A. In houses, in a few blocks of the riot.

Q. Was there anything to indicate they had been shown warrants at their houses to pick them up?

A. None of them had been shown warrants.

Q. None of them had been shown warrants. Did the men indicate to you which persons had done the arresting?

A. They did.

MR. DAY: I object to that.

MR. EDWIN S. SMITH: Overruled.

MR. DAY: Note an exception.

Q. (By Mr. Pressman) Who were these people that had arrested these men?

A. Why, most of them were arrested by the sheriff's office or National Guard.

Q. Had any of them been arrested by a special police that were put on the police force?

A. Some had.

Q. When you examined all these 150 to 165 men with regard to this and released them, did you find any basis whatsoever for the fact that they had been arrested?

A. Well, the only basis that I could find from my examination of them was that they had either been adjacent to the scene of the riot, or had been around there or lived close.

Q. No other justification than that they had been at the scene?

A. You see what happened there. This is another indictment on taking untrained men. Ordinarily when we have a big riot like that the prisoners are brought in and the officer that brings them in signs an affidavit against them and makes out a report at the time. For some reason or other the men were brought in that night in wholesale lots. The officers could not identify many of them, and only a few, that is, our own officers, could identify them, and it was a mess to determine from the police records where they had been arrested, or why. Most of that was learned by questioning the individual.

Q. Would you say as a result of these men that had been thrown in jail in wholesale lots by the men of the National Guard, special police, and sheriff's men that had done the arresting, that they had acted in accordance with the rights of these men who were arrested?

A. Well, that is a pretty hard question to answer because there had been a riot there that night and they were simply preventing any recurrence of that the same day or night.

Q. Was it necessary to prevent that recurrence to go into men's homes and arrest them?

MR. DAY: I object to that. I think this has gone beyond any proper limit. He has asked this man who wasn't there,—

MR. EDWIN S. SMITH: (Interposing) I think it is all pertaining to the record, and my only question would be is Mr. Hardman embarrassed by any of these questions while he is still in the midst of his investigation.

THE WITNESS: I will admit I am embarrassed because I really don't know.

MR. PRESSMAN: I will discontinue it if it is embarassing to Mr. Hardman.

MR. DAY: All right, that is all.

THE WITNESS: Anything further?

MR. EDWIN S. SMITH: That is all. Thank you Mr. Hardman.

(Witness Excused)

MR. EDWIN S. SMITH: Mr. Hunt, would you rather put your next witness on and let him testify until one o'clock, or adjourn for an hour at this point?

MR. HUNT: I think it might be well to put him on and adjourn at one o'clock.

MR. EDWIN S. SMITH: All right.

HENRY W. KRIER

a witness called for and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Hunt) What is your full name?
A. Henry W. Krier.
Q. Where do you live?
A. Massillon, Ohio.
Q. What is your occupation?
A. Mayor.
Q. When were you elected mayor of Massillon?
A. The fall of 1935.
Q. How old are you?
A. Sixty-four.
Q. Are you married?
A. Sure.
Q. Have you any children?
A. Yes, sir.
Q. Any grandchildren?
A. Yes, sir.
Q. Have you any great grandchildren?

A. Yes, sir.

Q. Sixty-four?

A. Sixty-four going on sixty-five.

Q. Where were you born?

A. Massillon.

Q. What is your political party?

A. Republican.

MR. HUNT: May it please the Board, I am going to ask some questions that may seem somewhat irrelevant.

MR. DAY: Don't mind that, that won't astonish us at all.

MR. HUNT: Thank you. They are more or less necessary in showing the type of man who was Mayor of Massillon at the time of unusual emergency and will explain his answers later on.

Q. (By Mr. Hunt) Mayor Krier, when did you start to work to earn your living?

A. When I was 12 years old.

Q. What did you do?

A. Carried brick in a brick yard.

Q. How much did you earn?

A. Forty cents a day.

Q. Did you stop going to school then?

A. Yes, sir.

Q. Did you ever go into business for yourself?

A. Oh, yes.

Q. Tell us about that.

A. Well, what do you want, from 12 years up?

Q. No, from the time you went into business for yourself.

A. From the time I went into business for myself?

Q. Yes.

A. The time I went in for myself I started what we call a tea route, selling teas, coffee, spices and extracts on a wagon.

Q. You sold tea on a tea wagon?

A. Sold tea, coffee, extracts and spices.

Q. All right.

A. There was a fellow wanted to sell a grocery on Tremont Street, and I didn't have any money, only this old wagon, so he had about three hundred dollars' stock and he told me if I would take it he would take it out in groceries and give me a chance at it. I done that and I kept my tea route, but I brought my wife down there and she would get the kids ready for school and she would take care of it and I would go on the route and I kept that until my business increased and until I quit the tea business and just had the grocery store, and finally, I put in a meat market, too, and I was very prosperous and done well in my time.

Q. How prosperous did you finally become?

A. I imagine $65,000 or $70,000.

Q. When was that?

A. It would be 1927, along in there, 1928.

Q. Then what happened?

MR. DAY: Do you think that is necessary? I don't want to object too much.

Q. (By Mr. Hunt) Then what happened?

MR. EDWIN S. SMITH: I take it Mr. Hunt is asking these questions for a particular reason.

MR. HUNT: I am.

MR. EDWIN S. SMITH: At least it is an interesting story.

THE WITNESS: That isn't all. I can give my whole life's history.

Q. (By Mr. Hunt) Then what else?

A. Of course I credited poor people too much and I could not say.

Q. What do you mean?

A. Well, during the depression,—

MR. EDWIN S. SMITH: (Interposing) Mr.

Mayor, I think some of the people are having difficulty in hearing you. Can you raise your voice a little bit?

THE WITNESS: I will try. I trusted the people that could not pay me and that naturally sunk me.

Q. (By Mr. Hunt) You were sunk in your business because you gave credit to poor people?

A. Yes, sir.

Q. You gave them groceries and they didn't pay for them, is that correct?

A. At that time they could not pay for them.

Q. Did you go into bankruptcy?

A. No, sir.

Q. Why didn't you?

A. I thought I could get out without beating anybody.

Q. How did you pay your creditors?

A. I made an arrangement with them I would turn over every thing to them.

Q. How much are you paying them now?

A. I am paying them still $40 a month out of my salary.

Q. What does your salary amount to?

A. Two hundred dollars a month.

MR. HUNT: The relevancy of these questions will appear later in the testimony, at least the last part.

Q. (By Mr. Hunt) Now Mayor Krier, were you present on or about June 14 at a meeting of the Chamber of Commerce?

A. Yes, sir.

Q. Were any other city officials present?

A. Yes, sir, the Chief, Mr. Hardman, and, I believe, Charley Snyder, the service director, was there.

Q. What was discussed at that meeting?

A. Well, it was putting on 50 extra police.

Q. All right, go ahead and tell us about that.

A. They thought they were needing them for protection on account of at that time people were excited and fearing everything. They were excited and they thought we needed fifty extra police and I told them we didn't have the money to put them on, and they agreed that they would pay them if we would put them on, and then I agreed. I would put on fifty extra policemen to take care of the situation, but I would not send one down to the picket line. I meant I didn't want to tackle the picket line.

Q. Who were the persons referred to when you say "they."

A. Well, there was Mr. Lester and Mr. Case, but there was quite a few there. Of course, I can't just remember so well as the younger fellows can.

Q. Now, later that day were you at a conference at the Hotel Onesto in Canton, Ohio?

A. Yes, sir; after that the Chief told me he wanted me to go along over to the Hotel and meet Mr. Meyers.

Q. That is Mr. Carl Meyers?

A. Yes, sir; I think that is the name, Carl.

Q. Did you see Mr. Carl Meyers?

A. After we were there a while, not very long, but we seen him.

Q. What did he say?

A. He asked us if we would try to get foot into,—I think he said he had 16 guards or police and four other men in there. I told him I didn't like that job because I was afeared there would be bloodshed and I would sooner have peace and no blood, and I would not do that.

Q. What did Mr. Meyers say to you?

A. Well, he said a lot I can't remember so well, among a crowd like that, but he said if the plant didn't get started Massillon would be ruined.

Q. He said what?

A. Massillon would be ruined if they could not get the plant started.

Q. Do you remember anything else Mr. Meyers said to you?

A. That is all I can remember. He said more but I just can't remember what the conversation was.

Q. I see.

A. There was plenty said, but I just don't remember it.

Q. Now, on June 15 were you present with a group representing the Trades & Labor Council at a meeting?

A. Yes, sir.

Q. Tell us what took place.

A. Well, I just got home about nine o'clock and some of them called me up and asked me if I would meet them a moment and I told them "Sure." I had no way to get down. "If you will come and get me I will come down." And so they came and got me and when I got down there, there was about 200, I imagine, and Mr. Hardman, the City Solicitor, was in a boxing commission in the City Hall and I went and got him and told him there was a group of men that would like to meet us, so he came out and they read a resolution there protesting against me putting on any more policemen. I told them, "Gentlemen, I just agreed that I would not put on more policemen." I said, "If we get them I will sure put them on, but I will guarantee you we won't take any to break the picket line." And I said, "All I hope and pray for is no bloodshed, all I want is peace and no bloodshed."

Q. Did you refer to the Mediation Board in Cleveland?

A. Yes; well, that was a different group, they didn't ask me anything about that.

Q. Do you remember addressing a Back-to-Work Committee about June 21st?

A. Yes, sir.

Q. Who were present? What city officials were present besides yourself?

A. Well, there was I and the Chief and the Prosecuting Attorney and Charley Snyder, the Service Director, and I am not sure if Hoffman was or not.

Q. What did this Back-to-Work Committee want to see you about?

A. They thought I wasn't giving them protection enough and wanted more protection. I asked them, "Gentlemen, don't be so hasty. Why not wait until we hear from the Board at Cleveland, and I hope they will do something.", I said, "Gentlemen, remember if we start such things it won't be one-sided, there will be bloodshed on both sides." I said, "Be patient a few days."

Q. Do you remember hearing Chief Switter make a speech?

A. Yes, sir; he made one ahead of me.

Q. What did he say?

A. He told them practically the same thing, to be peaceful for a few days until we heard from the Board.

Q. Where did you go after this meeting with the Back-to-Work Committee?

A. The Chief got me and we went over to see Mr. Lawler.

MR. EDWIN S. SMITH: Who were the chief spokesmen at the Back-to-Work meeting?

THE WITNESS: Why, Mr. Lester.

MR. EDWIN S. SMITH: I am apparently under some misapprehension. This was not the meeting of the Republic employees that wanted to go back to work?

THE WITNESS: Yes, this was a meeting of the men wanting to go back to work.

MR. EDWIN S. SMITH: This was Lester?

THE WITNESS: I believe it was that man Lincolnhaley, I would not say. I think he done most

of the speaking, but it was a group of working men that wanted to go back to work.

MR. EDWIN S. SMITH: You don't recall any other speakers, particularly?

THE WITNESS: Not particularly.

Q. (By Mr. Hunt) After that you went to see a man by the name of Lawler?

A. Yes, sir.

Q. Who is he?

A. Well, he is an observer of the National Guard's camp, and I heard he was a nice man and I thought we would go over there and see if he could give us some advice.

Q. Who is "we"?

A. I, the Chief, the Prosecuting Attorney, and, I believe, Charley Snyder was along that day. We thought we could get some advice about how to handle this thing.

Q. What happened at that meeting with Colonel Lawler?

A. He explained how the camp was going along, he was doing fine, and I asked him, I said, "Well, Mr. Lawler, if you have a little time can you come over and go over our situation a little bit," and he said, "Well, I have been over there. It is fine. There is no trouble over there. I can't see why it isn't fine. It is very fine." He said to me, "Of course you have little ups and downs." And I said, "Yes, we sure have." He said, "You must give and take, you know you must not pick up every little thing against the law, like blocking the road, or something like that." He said, "If you go along that line on that we could have peace."

Q. About this time did you receive within the space of two or three days several hundred identical letters?

A. Yes, sir.

MR. EDWIN S. SMITH: If you are going to in-

troduce them as an exhibit I think we had better recess at this time.

MR. HUNT: Very well.

MR. EDWIN S. SMITH: It is one o'clock the regular time, and we will adjourn until two.

(Whereupon, at 1:00 o'clock p. m., the hearing was adjourned until 2:00 o'clock p. m. of the same day.)

After Recess

Thereupon, at 2 o'clock p. m., the hearing was resumed, pursuant to recess.

MR. EDWIN S. SMITH: Are you ready to proceed, gentlemen?

MR. DAY: In order to preserve the record, may I make the same motion as to the testimony of Mr. Hardman, to strike out each and every conversation and episode separately and collectively on the ground they do not support any charge in the bill of complaint or any violation of the Wagner Act.

MR. EDWIN S. SMITH: The motion is denied.

MR. DAY: And I understand the testimony of Mayor Krier will be taken under the same general understanding as to every conversation and every episode?

MR. EDWIN S. SMITH: Yes.

MR. DAY: Thank you very much.

HENRY W. KRIER

resumed the witness stand, and, having been previously sworn, testified further as follows on behalf of the National Labor Relations Board:

Direct Examination (Resumed)

Q. (By Mr. Hunt) Mayor Krier, just before we left for lunch I started to ask you whether you had received

several hundred letters on or about June 21st, or, let us say, to June 25th?

A. Yes, sir.

Q. Did you?

A. Yes, sir.

Q. Were these letters all addressed identically?

A. Yes, sir.

Q. Are these three letters that I now show you some of the letters which you received?

A. Yes, sir.

Q. These letters were all printed letters on little slips like this (indicating), were they?

A. Yes, sir.

Q. And they were addressed to you?

A. Yes, sir.

MR. HUNT: I would like to read one.

MR. DAY: Let me see them first, if you please.

We object to the admission of them upon the ground that they are not shown to have been put out by the Respondent, or by anyone connected with the Respondent, and they have no bearing upon any issue here.

MR. EDWIN S. SMITH: I take it you intend to offer these in evidence?

MR. HUNT: Yes, I do.

MR. DAY: Do you intend to show that the Republic Steel Corporation had anything to do with the circulation of them?

MR. HUNT: I intend to offer these in evidence to show the pressure from whatever source upon the Mayor to do more than he was doing. If I read one of these letters it will indicate the pressure to which he was put, and as to his not doing his duty and as indicative of the atmosphere under which the Mayor and the other city officials were working.

MR. EDWIN S. SMITH: Why don't you read one, if they are all of the same type, and let the Board see one of them.

MR. HUNT: Shall I read it?

MR. EDWIN S. SMITH: Go ahead.

MR. HUNT: (Reading):

"Hon. Henry W. Krier:
Mayor of Massillon:

"Many hundreds of us want to go to work. Several thousand more of us citizens and voters want them to go to work; we are prevented from working due to you, as Mayor, not protecting us from the lawless striking element; you, by not doing your duty, are responsible for thousands of children and mothers going hungry. If you do not do your duty this term we shall see to it that you are not re-elected.

Name "Frank Heyard

Address "Republic Corp."

MR. EDWIN S. SMITH: It may be admitted as an exhibit.

MR. DAY: And we note an objection and exception.

MR. EDWIN S. SMITH: I wish you would inquire of the witness whether the envelopes in which these letters were received are apparently as uniform as these which you have shown us.

Q. (By Mr. Hunt) Were the envelopes as uniform as these?

A. Yes, they were all alike.

Q. And you received how many of them, about?

A. Some of them came four or five in an envelope from a family, or something like that. I got about 400, I guess, of the slips. Sometimes they would come four and five in an envelope.

Q. And the envelopes were all addressed identically?

A. Yes.

MR. EDWIN S. SMITH: I didn't hear how many you said you got?

THE WITNESS: I got about four or five hundred of the slips.

MR. EDWIN S. SMITH: And how many of the envelopes?

THE WITNESS: I would say fifty.

MR. EDWIN S. SMITH: Did you get all of them at the same time?

THE WITNESS: No, sir; it took two or three days.

MR. HUNT: We are introducing three exhibits numbered separately here, Board's Exhibit 5, containing ten of these slips; Board's Exhibit 6, containing one slip, and Board's Exhibit 7, containing five slips.

MR. EDWIN S. SMITH: Is that an arbitrary arrangement of the slips in the envelopes?

MR. HUNT: No, it is not. It is exactly as they were received.

MR. EDWIN S. SMITH: Very well. They are admitted.

(The envelopes and contents above referred to were received in evidence and marked "Board's Exhibits 5, 6, and 7.")

Q. (By Mr. Hunt) Mayor, when you received this letter stating that you were not doing your duty and making thousands of children and mothers go hungry, how did you feel?

A. I felt very badly because all of my life I tried to help the poor wherever I could. I didn't think that was very nice.

Q. Did you recognize any of the signers of these letters?

A. A few of them; yes.

Q. What were they doing?

A. I recognized only one man that was in the whole

crowd there at the City Hall. It was only one man.

Q. Was he in the Law and Order League?

A. No, he was in the back-to-work. There was just one.

Q. Did you see one of these letters before you received all of these letters?

A. Yes, sir. A night or two before then Robert Siffron, I believe it is, secretary of the Trades Labor, stopped at my house about 10 o'clock at night, I imagine, and he asked me if I had seen one, and I told him no. He said I was to receive about 2,000 to 2,500, to be delivered on my desk. I told him I didn't see anything. He said, "Well, Mayor, we will take care of that bottom. We will help you all we can.

Q. The bottom what?

A. That says about re-elected.

MR. DAY: What was this man's name?

THE WITNESS: Robert Siffron.

Q. (By Mr. Hunt) On June 25th were you visited by a group of the Law and Order League at the City Hall?

A. Yes, sir.

Q. What happened then?

A. Well, they came in with a petition. Mr. Wefler read it, and Frank Maier had a little talking to do. He said, I wasn't taking care of the law by leaving them carry sticks and keeping the roads blockaded, and all that kind of stuff. I told him I thought I was doing everything possible that I could do. And he just went on and raised the devil about it. That is all.

Q. Did they read a petition to you?

A. They read it to us all.

Q. Did they say anything more?

A. I looked at the petition. Roughly it was all signed up with names and stuff.

Q. Did you say anything more to them?

A. I don't just remember. I believe, though, I told

them this: I told them I was doing everything in my power to keep peace and no blood. I didn't want to start anything if I could help it.

Q. On or about July 5th did you ever talk with a General Marlin?

A. Yes, sir.

Q. What was the occasion of your talking to him?

A. The Chief called me on July 4th and he told me they wanted me down at the City Hall on July 5th. So I went down and went in, and Mr. Marlin and the Chief and I were in there. And he wanted us to put on deputies rather than home guards, and other policemen, too, enough to take care of the situation when they left. He warned us that they may only be there one day, or they might be there two; he didn't know—so we had better take care of it as fast as possible.

Q. What else did he say?

A. He said if we didn't we would be in an awful shape because he didn't know when they would pull out the troops.

Q. What did he mean by being in an awful shape?

A. That we would not be able to handle the situation.

Q. Did he say anything else?

A. He said more.

Q. Is that all that he said that you can remember?

A. That is all I can remember; yes, sir.

Q. Were you present at a conference with a group from the Law and Order League at the City Hall on the morning of July 7th?

A. Yes, sir.

Q. Were there other city officials present?

A. Yes, Mr. Hardman and the Chief.

Q. Who were some of the members of this Law and Order group who were present?

A. Lester—that is, J. G. Lester; Mr. Case, Tom Poe, and, I believe, Albert Walsh, the banker, was there. There

were quite a few of them.

Q. Tell us all that you can remember of that conference?

A. They wanted us to put on these deputies and other policemen, enough to take care of the situation they said. And we argued and argued and argued, and we talked about putting on home guards. And I told them the reason I did not want to put on home guards on either side.

Q. What do you mean by you did not want to put them on either side?

A. I did not want to put on either strikers or go-backs because there would be too much friction there if I did.

Q. You mean you did not want to appoint strikers on the home guards and you did not want to appoint back-to-work men on the home guards?

A. Yes, because there would be too much friction. But they couldn't see it. And they kept after me and after me until I agreed I would.

MR. DONALD WAKEFIELD SMITH: They kept after you to do what?

THE WITNESS: To put on the home guards.

MR. DONALD WAKEFIELD SMITH: I understand that. But you said you did not want to put on strikers or back-to-work men.

THE WITNESS: Yes.

MR. DONALD WAKEFIELD SMITH: Were they trying to get you to put on men from either of these classes?

THE WITNESS: They told me first to put on home guards, and then deputize them and let them carry guns in their neighborhoods.

MR. DONALD WAKEFIELD SMITH: The men working at the plant would be deputized as home guards under that proposal?

THE WITNESS: Yes, and they would carry

guns to take care of their neighborhoods.

Q. (By Mr. Hunt) Mayor Krier, Mr. Meyers of the Republic Steel Corporation was present, wasn't he?

A. Not at that meeting, he was not.

MR. EDWIN S. SMITH: So that the sole use for the home guards was to be this, that these men were to have arms to protect—

THE WITNESS: To protect the neighborhood.

MR. EDWIN S. SMITH: To protect their neighborhoods?

THE WITNESS: Yes, in which they lived.

Q. What excuse was offered for that kind of protection?

A. I suppose so that the other side, the C. I. O. would not harm them, or molest them.

Q. You mean in case that members of the strikers were to attack any of these people in their homes they would be armed so as to resist them or arrest them?

A. To arrest them and bring them down.

Q. Was there any proposal to add not only home guards but special policemen?

A. Yes, sir. They wanted us to put on special policemen, too. And the Chief blew up and he said, "All right. We will put them on from both sides." He said, "You are looking for it, so let it come."

Q. (By Mr. Edwin S. Smith) What did he mean by putting them on on both sides?

A. The Chief said he would put both of them on.

Q. Back-to-work men and the strikers?

A. Yes.

Q. (By Mr. Hunt) Did he say anything else?

A. That is all I can remember.

Q. (By Mr. Edwin S. Smith) Was there any showing made to you as to the danger that would happen to these men in their own homes that made it necessary to take this very unusual step of appointing and deputizing

home guards to protect their own neighborhoods?

A. I never saw any. At least I didn't think it was necessary. Of course, I don't know what threats might have been made on the outside; but I didn't see any, and I didn't see any reason why to put them on. I thought we should put on police by the city and not to take either side, because there was too much friction there on either side.

Q. (By Mr. Hunt) At this meeting at the City Hall did you go to a luncheon at the Y. W. C. A.?

A. Yes.

Q. And some other city official was present?

A. Yes, Mr. Hardman, the Chief and I, and the Safety Director.

Q. Was Captain Curley present?

A. Yes. That was the first meeting at which I had seen him.

Q. Were there some leading manufacturers of the town present?

A. Yes, sir.

Q. Was Mr. Carl Meyers present?

A. Yes, sir.

Q. What took place at this luncheon?

A. Well, in the first place, Tom Poe spoke a little and talked this matter over with the policemen, and Harry Curley made a speech that the manufacturers would furnish us with men. Harry Curley said he could get them. He asked the manufacturers there. I think there was some there from the Aluminum Works, and I believe the National Steel Castings, and Mr. Meyers was there from the Republic Steel, and Mr. Lester, who runs the rubber works, and there might have been one or two more there.

MR. DONALD WAKEFIELD SMITH: Was it your impression then from that conference that the Republic Steel Corporation would participate in the payment of special officers for the use?

THE WITNESS: No.

MR. DONALD WAKEFIELD SMITH: I mean the Republic Steel along with these other manufacturers you mentioned?

THE WITNESS: They were supposed to do this after they were done working. The Central Steel was not supposed to pay anything.

Q. (By Mr. Hunt) Did Mr. Carl Meyers make a speech?

A. Yes, Mr. Carl Meyers made a speech.

Q. What did he say?

A. He didn't recommend the teeth very hard for a start. He said we just didn't do our duty, and he thought from now on it appeared to look as though we were going to be all right.

Q. In your opinion as Mayor, Mr. Krier, do you think you handled the strike situation well and had it under control from the beginning of the strike up until the night of July 11th, when the fight occurred?

A. I thought so, yes; I had done my best. I thought we had it under control. We did not have a whole lot of trouble.

Q. Do you think you could have done even better if you had not been subjected to various forms of pressure by various organizations and individuals?

A. Do you mean while the shop was shut down?

Q. Yes.

A. There was no trouble while the shop was shut down. But you mean when they opened it?

Q. Yes.

A. Yes. We could have handled it as well as we could with the guards.

Q. Do you think you did a pretty good job up until the night of July 11th?

A. Yes. Of course we had the guards. When the plant opened up the guards were there.

Q. What guards?

A. The National Guards.

Q. After the guards left the city, was the city quiet for two or three days after that?

A. Yes, the city was quiet for two or three days until something broke out.

MR. HUNT: That is all.

Cross Examination

Q. (By Mr. Day) Mayor, I would like to ask you some questions. As I understood you, you said a little while ago that there was not very serious trouble until after the men started to go back to work. Is that right?

A. Yes. I mean until after this trouble came on on July 11th.

Q. If there had been a clash between the men going back to work and the pickets at any time you did not have policemen enough to handle that situation, did you?

A. If it was as hot as it was, you know.

Q. As long as there was no clash you did not need any more policemen?

A. As long as it did not get too bad.

Q. If there wasn't a clash between the pickets and the men wanting to go back to work; but if there had been a clash between the pickets and the men wanting to go back to work you could not handle it with your policemen?

A. Like it was on the 11th?

Q. Yes.

A. No; we had the guards there then, you see.

Q. If there had been any clash between any number of pickets and men going back to work you could not have handled that with your four or five policemen?

A. No, not with the small number of policemen. But with these extra we could have handled a good big crowd.

Q. (By Mr. Edwin S. Smith) What do you mean by the extra?

A. We had put on the extra police.

Q. (By Mr. Day) You had talked to Mr. Carl Meyers about getting food in to some men working there in the plant, hadn't you?

A. Yes.

Q. And you were afraid if they tried to take food in there that there would be bloodshed?

A. I was afeared we had no right, in the first place, and I thought if we took it in there we would have plenty of bloodshed; yes, sir.

Q. By that you mean if somebody had tried to take food into the plant, to drive it in there in a truck, for instance, to the men who were working in the plant, there would be bloodshed because the pickets would try to stop it?

A. I was afeared of that, yes.

Q. And that would come from the pickets stopping the men from taking the food into the plant?

A. I imagine it would.

Q. You said also if the back-to-work movement was encouraged so that the men started to go back to work, you were afraid of trouble, or bloodshed?

A. Yes.

Q. And that was because of the pickets, too, wasn't it?

A. Sure.

Q. You were not out at the scene of the riot?

A. No, sir.

Q. On the night—

A. No, sir; I wasn't out hardly at all.

Q. I want to complete the record. That was on the night of July 11th. That was Sunday night.

My attention is called by Mr. Patton to this.

That is all I care to ask the Mayor at this time.

But at this time, with the Board's permission, I would

like to reserve the right to recall any or all of the witnesses who have already testified—that is, for further cross examination if that becomes necessary somewhere in the hearing. I do not mean now and I do not mean at this hearing. But we have been called upon to examine these witnesses upon fairly short notice, and we would like to cross examine them if the occasion arises—that is, some time before the hearing is concluded.

That is all of the Mayor now.

MR. HUNT: I merely submit to the Board if this request is granted, there is the question as to whether the witnesses should be called as witnesses for the Respondent or as witnesses of the Board.

MR. DAY: I would not think that would be necessary.

MR. EDWIN S. SMITH: I think that that whole matter might well be left in abeyance for the present, and at the proper time if a request is made by the company for the recall of their witnesses, a ruling can be made as to whether that privilege will be granted, and under what condition.

MR. DAY: May the record show now that we ask the privilege of calling any one or more of these three witnesses for further cross examination, for the reasons stated?

MR. EDWIN S. SMITH: The Board will reserve decision on that request.

MR. DAY: And may we have the same motion to strike the testimony of the Mayor upon the same grounds as in the case of the motion as to Mr. Hardman's testimony and the testimony of Chief Switter?

MR. EDWIN S. SMITH: The motion is denied.

MR. DAY: An exception, please.

Redirect Examination

Q. (By Mr. Hunt) Mayor Krier, you said you did not believe it to be your duty to see to it that food got into the guards and maintenance men in the Republic plant? Why didn't you?

A. It was outside of the city.

Q. It was outside of the city?

A. Yes.

Q. And, therefore, it was not your job to do it?

A. No, it wasn't my job.

MR. HUNT: That is all.

MR. EDWIN S. SMITH: Are there any further questions?

MR. DAY: No further questions.

MR. EDWIN S. SMITH: Are you through with these three witnesses from Massillon?

MR. HUNT: I am.

MR. EDWIN S. SMITH: I just want to say to each and all of you that the Board appreciates the cooperation and the courage that the three of you have shown in coming here to testify in these proceedings.

(Witness excused.)

MR. LAUTER: I will call Mr. Hardesty.

FRANK HARDESTY

was thereupon called as a witness for and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Lauter) Will you please state your full name?

A. Frank Hardesty.

Q. Where do you reside?

A. 2228 Eighth Street, Canton, Ohio.

Q. Have you been associated with the Steel Workers Organizing Committee?

A. That is right.

Q. When did you become associated with them?

A. Last August.

Q. August of 1936?

A. Yes, sir.

Q. In what capacity did you become associated with the Steel Workers Organizing Committee?

A. I started in as an organizer first, and then was promoted to sub-regional director in January.

Q. Sub-regional director for what?

A. Steel Workers Organizing Committee.

Q. Does that refer to any particular area?

A. That is for the Canton-Massillon area.

Q. Will you describe what your duties are as sub-regional director for the Canton-Massillon area?

A. My duties are to enlist membership in the campaign and see that the organization as a whole is directed properly—whichever duties that might be.

Q. Did a strike occur at the Massillion plant this year?

A. That is right.

Q. When did that strike take place?

A. The evening of May 25th.

Q. Is that strike still on?

A. It is.

Q. Are you familiar with the strike headquarters on Cleveland Avenue?

A. I am.

Q. In connection with your duties as sub-regional director, have you had occasion to visit those headquarters?

A. Many times, yes.

Q. Did you visit those headquarters on July 11, 1937?

A. Yes, sir.

Q. About what time did you arrive there?

A. About 9:45 Sunday evening.

Q. Will you describe what you saw there when you got there at 9:45?

MR. DAY: Now, will you take this on the same record? This is going to relate to that Sunday affair?

MR. HUNT: That is correct.

MR. DAY: Can that be taken under the same objection as to each conversation and episode and incident?

MR. EDWIN S. SMITH: The same record.

THE WITNESS: At 9:45 Sunday evening I arrived at the Massillon headquarters. As usual, I saw several men who were pickets around the headquarters, and nothing more than the ordinary.

Q. (By Mr. Lauter) With whom did you arrive at the headquarters there? Did you come alone?

A. No.

Q. With whom did you go there?

A. Harold Ruttenberg.

Q. Anybody else?

A. Martin J. Beckner.

Q. Will you state what the name of the lodge is that has its strike headquarters on Cleveland Avenue?

A. That is the New Deal Lodge, Local No. 1124.

Q. Will you proceed with what you were telling us before?

A. I arrived at Massillon at about 9:45 Sunday evening. When I drove up there I noticed as usual there were quite a few pickets around there.

Q. How many would you say there were around there?

A. At that time I would say somewhere around fifty or sixty. I got out and talked to some of the fellows. I went in the large room where they had to feed the pickets, and there was music in there. There were four or five

young fellows in there playing music and entertaining the pickets and having a very good time. I walked out and I saw one of the organizers, Tod Cooley. He asked me if I wanted to go down with him and get a drink of Coca-Cola. And we went down there to a soft drink stand and got a Coca-Cola and we stayed there five or ten minutes, and then we started back. When we came out of the building it immediately started to rain very hard, and we got up on somebody's porch, although I don't know whose it was. We got up out of the rain on the porch until it slacked up, which was possibly six or eight or ten minutes after, or something like that.

After it quit raining we came to strike headquarters. And the music and things were going on as usual. Naturally, I talked to some of the fellows. I went into the office for a little while and talked to some of the boys in there. Then I came out onto the street again and then someone said something about a little trouble over at the viaduct.

Q. About how far from strike headquarters is the viaduct?

A. I would say it is possibly half or three-quarters of a mile. I would say a half mile or maybe a little further.

Q. About what time was this?

A. This was about 10:30. Naturally, being interested in keeping down any trouble, Mr. Ruttenberg and myself got into my car and we attempted to drive over the viaduct. When we got over on Erie Street we found quite a few automobiles lined up along there and noticed some policemen waving their clubs and things around, so we decided that it was going to be too much trouble to go up there, so we proceeded to turn around and go back to strike headquarters.

When we arrived this time, of course, that was coming near the time that the pickets changed their shifts, and there were more men there. I suppose there were possibly

125 or 150 men there at that time. So we got out and walked back.

Q. What time did they change the shifts?

A. Eleven o'clock.

Q. (By Mr. Edwin S. Smith) When you speak of the 125 or 150 men, do you mean both inside or outside the strike headquarters?

A. Yes.

Q. The total number?

A. Yes, a total of about 125 there.

I got out and talked to some of the boys again. The music was still going on. I went into the office of the headquarters, and it was kind of warm in there, so I came back out onto the street again. When I came back onto the street and stood around, I talked for a few minutes, and there was a car across the street.

Q. Before you get to that, did you notice any police around strike headquarters?

A. Yes, I did. I noticed quite a few when I got back from the trip over to the viaduct. There were quite a few more than usual to be gathered there. I suppose there were somewhere in the neighborhood of twenty to twenty five.

Q. Will you describe the position of the policemen?

A. They were lined across the street, most of them, and there were two fellows sitting around on the sides of the bank, or there were a few fellows sitting around on the banks in vacant lots.

Q. They were strung across the street?

A. Yes, they were strung across the street, most of them.

MR. EDWIN S. SMITH: Were there usually some police around the place?

THE WITNESS: There was most generally a couple of them around there. But this evening there was some place in the neighborhood, I presume, of

twenty to twenty-five. There was a car drove up on the opposite side of the street and he had his lights on, some one of the policemen shouted at him to take his lights off, which he did do.

After he had taken his lights off it was a matter of only just a few seconds until I heard someone shout again, "Break them up. Let them have it."

And they started to shoot. However, I didn't move immediately, because, not being used to riots and things of that kind, I really thought they were just shooting dummies. I thought it was more or less of a bluff. But it wasn't very long until I found they were really shooting bullets. I started to move. I retreated up the street.

Q. (By Mr. Hunt) When you say they were shooting bullets, to whom do you refer?

A. The policemen.

Q. Where were they from C. I. O. headquarters?

A. They were about fifty feet down the street towards the steel plant. I saw a policeman go down like this (illustrating) and start to shoot. At first I couldn't really believe they were shooting real bullets into a crowd of men like that, until I really heard the bullets flying and the bullets flying off the buildings. At that time I thought it was time for me to retreat up the street, which I did.

MR. EDWIN S. SMITH: Let me get this straight. Was this crowd of men standing between you and the policemen, and you were in back of them?

THE WITNESS: No, I was right in and more or less mixed with the men. There were some of the fellows who were behind me and some of them were in front of me. We started to move up the street. I had not moved very far at all until one fellow hollered he had gotten shot in the shoulder, and he threw his hand over his shoulder.

MR. EDWIN S. SMITH: What did he say?

THE WITNESS: He said, "They got me. I am shot." There were three or four friends with him, and they grabbed hold of him and took him along with them.

Q. Let me understand this. You were running up Cleveland Avenue?

A. We were running up the street from the mill, up Cleveland Avenue. I had not run very far until I saw another man lying on his face with his hands outstretched, motionless, who had been shot by the policemen, and from the way he was lying there, there was no doubt, or I thought he was dead, and I guess it did turn out that he was dead. So we kept running up the street until we found an opening in the fence, where we darted and ran down the side of the building until we came to an alley parallel with Cleveland. We ran across that until we crossed McKinley Avenue. And I circled back to Cleveland Avenue and was over on the street, and one street further over than Cleveland Avenue. I don't know the names of the streets over there.

After I got there, Martin Beckner and another fellow drove up and Mr. Beckner was hanging on the running board of the car, and he stopped and we got into the car and went back to Canton.

Q. Will you describe the kind of building it is that is used at strike headquarters?

A. It is a frame two-story building. It has, I believe, six rooms altogether downstairs. There is a large room in front that we used to feed the pickets in.

Q. What side of the building is that on?

A. That is on the side furthest from the mill.

Q. Away from the mill?

A. Yes. Then there is another small room and the kitchen. We had the ladies cook in the kitchen. Of course, on the other side of the hall we have an office in front, and then there is a room that is used for storage. It is furnished. In the middle room it is furnished. And then

there is another room back of that.

Q. How many doors are there in the front of this building?

A. Three.

Q. Where does the center door lead to?

A. Upstairs.

Q. And the other two doors lead to the rooms on both sides of the building?

A. That is right.

Q. You visit those strike headquarters occasionally in connection with your duties there?

A. Yes.

Q. Do you know how many men died as the result of the strike fracas?

A. Three.

Q. Do you know whether or not they were C. I. O. members?

A. That is right. That is, it has been reported to me that they were C. I. O. men. I did not take occasion to check up on it myself.

Q. Did you on the evening of July 11th at any time see any shooting at C. I. O. headquarters?

A. I did not.

Q. Did you see any persons other than police using any weapons?

A. I did not.

MR. EDWIN S. SMITH: My sense of geography is a little mixed. I would like to have the witness go over the main points of this story with the map that was introduced as Respondent's Exhibit No. 1.

MR. LAUTER: If the Board please, there will be later a complete description of it. I do not mind going into it now, but this witness as sub-regional director visits the headquarters occasionally.

MR. EDWIN S. SMITH: Will you at some time

show us exactly where the police were stationed and where the strikers were?

MR. LAUTER: Yes.

Cross Examination

Q. (By Mr. Day) Where do you live?

A. No. 2228 Eighth Street, Northwest, Canton, Ohio.

Q. How long have you lived there?

A. I have lived there about 22 or 23 years.

Q. You are what on the S. W. O. C.?

A. A Sub-Regional Director.

Q. What are your duties and what is a Sub-Regional Director?

A. My duties as Sub-Regional Director are to take care of that area in soliciting membership, and taking care of lodges set up, and taking care of anything that might come within my district.

Q. What is your district?

A. The Canton and Massillon area, which extends possibly from fifty to seventy-five miles around there.

Q. Did you ever work for Republic?

A. No, sir.

Q. Where did you work in Canton?

A. At one time for the Timken Roller Bearing Company.

Q. How long ago was that?

A. About a year ago.

Q. How long have you been a labor organizer?

A. About a year.

Q. You have been very active in this strike, haven't you?

A. Oh, in taking care of my duties, yes.

Q. Whether in taking care of your duties or not, you have been very active, have you not?

A. When there is a strike on a fellow has to keep plenty active.

Q. Do you recall attending a meeting in Canton that was attended by some mayors and police chiefs some time before the Sunday night trouble in Massillon, and a request was made of you to disarm the pickets in your district?

A. I remember attending a meeting.

Q. Did you have a request made, or do you remember a request was made of you to disarm the C. I. O. pickets?

A. Not necessarily, no.

Q. Not necessarily. I am asking you whether you remember you were present at a meeting when a request was made of you that you disarm the pickets in your region?

A. Well, I attempted to enter into an agreement whereby if the Republic Steel Corporation saw that the men on the inside of the plant were disarmed and the non-strikers were disarmed, that we would disarm the pickets on our line.

Q. Now, I will ask you this question: Was a request made of you by the law enforcing officers of Canton and Massillon that you see to it that your pickets were disarmed, and, as you say, you would not do it, that this was not a pink tea strike?

A. No; I don't remember saying that.

Q. Will you say under cath that you did not say that?

A. I don't remember whether I said it or not.

Q. How is that?

A. I don't remember whether I said it or not.

Q. If you don't know you will neither affirm nor deny it? Is that right?

A. I would not say that I did or that I did not.

Q. Do you recall also making a statement to one of the Canton papers reporters that if the police force in Canton were increased by adding citizens to the personnel

that you would see to it that the Akron Rubber workers would come down and invade Canton and Massillon?

A. No.

Q. Did you make that statement to any newspaper reporter?

A. No.

Q. Did you ever make that statement to anybody?

A. No.

Q. What time did you get to Massillon on the night of July 11th?

A. About 9:45.

Q. Were you alone?

A. No.

Q. Who was with you?

A. Harold Ruttenberg and Martin Beckner.

Q. That afternoon you had been at Oak Knoll Park?

A. Yes.

Q. And there was a mass meeting there?

A. Yes.

Q. What time did it start?

A. About 3 o'clock.

Q. What time was it over?

A. I would say some place in the neighborhood of 4:30 or a quarter of five.

Q. Did you speak?

A. Yes.

Q. Did Joe Morton speak?

A. Yes.

Q. I will ask you whether or not in that speech Joe Morton said in words or in substance that the only thing for the C. I. O. men to do was to fight?

A. I wouldn't say that he said that.

Q. Would you say he did not?

A. No.

Q. I will ask you whether or not in that speech Joe Morton asked the C. I. O. members who were present a

the mass meeting to be on the picket line at Massillon at 11 o'clock that night?

A. To my knowledge he did not say 11 o'clock.

Q. Did he ask the men to be in the picket line?

A. He naturally said the men ought to be in the picket line to help support the strike, that you could not win a strike off the picket line.

Q. What time did Republic change shifts that night?

A. Eleven o'clock

Q. It was the 11 o'clock shift, wasn't it?

A. Do you mean the pickets?

Q. Yes.

A. Yes, they changed at 11 o'clock.

Q. And there was a change of shift of workers in the Republic at 11 o'clock, wasn't there?

A. No, sir; I couldn't say about that.

Q. You don't know about that?

A. No.

Q. You don't know anything about that?

A. If it did change at 11 o'clock they changed the time, because I know when we used to be over there before they changed not at 11 o'clock.

Q. Did you see the trouble at the beginning of the viaduct that night?

A. I did not.

Q. Did you notice some automobiles were jammed together and blocked the viaduct for a while?

A. No.

Q. Did you hear about that?

A. I heard there was a little trouble over there.

Q. Where were you when you heard that?

A. At strike headquarters.

Q. Where were you when the trouble started that you have told this gentleman about?

I did not get his name.

MR. LAUTER: My name is Lauter.

A. I was standing right in front on the cement steps in front of the strike headquarters.

MR. DAY: Will you mark this as Respondent's exhibit?

MR. LAUTER: If they are being offered in evidence I would like to see them.

MR. DAY: I have not offered them yet.

MR. LAUTER: If you mark them for identification—

MR. DAY: You can see them. I am going to ask to have it marked.

MR. LAUTER: I am just suggesting that I noticed the procedure has been to offer them direcly in evidence.

MR. EDWIN S. SMITH: They may be marked for identification.

MR. LAUTER: I am suggesting for that reason that I might see them before.

(The photograph referred to was marked for identification as "Respondent's Exhibit No. 3.")

MR. DAY: Is there any objection to showing this to the witness?

MR. LAUTER: Is it the same picture?

MR. DAY: Yes, it is.

MR. LAUTER: There is no objection.

MR. DAY: I think this might help the Board a little bit.

Q. (By Mr. Day) There is a picture. Do you recognize the office?

A. Yes, I know where the office is.

Q. Where are C. I. O. headquarters?

A. C. I. O. headquarters are right there (indicating).

Q. That building with the white patch on it there?

A. Yes. This is it.

Q. About how far is the C. I. O. headquarters from that office in feet?

A. I don't know.

Q. About how far?

A. I would say it is about two and a half city blocks.

Q. When the trouble started did I understand you to say that you were inside the building, or outside?

A. No, I was standing right up on these steps right in front of there.

Q. How many steps are there?

A. I think there are about three down to there (indicating).

Q. (By Mr. Edwin S. Smith) You are now describing the steps in front of the strike headquarters?

A. Yes. I think there are about three steps there. I was standing on this cement porch out in front.

Q. (By Mr. Day) Who were standing there with you?

A. There were so many I could not attempt to tell you.

Q. Name some of them.

A. Well, I don't know any of them. Harold Ruttenberg was standing in the door.

Q. (By Mr. Edwin S. Smith) Are you now offering this in evidence or are you prepared to do so?

MR. DAY: I offer it in evidence. I think it ought to be in evidence.

MR. LAUTER: There is no objection to admitting the exhibit in evidence, except that I want to point out that it is a rather unusual view of the C. I. O. that is being offered at this time.

MR. DAY: It is what?

MR. LAUTER: It is a rather unusual view of C. I. O. headquarters being offered at this time.

MR. EDWIN S. SMITH: Will you please explain what you mean by that?

MR. LAUTER: The building to which we are go-

ing to refer, or about which we are going to hear considerable testimony, I assume, is the small building a little to the right of the center of the picture, and the photograph here rather distorts the front of it and makes the street seem a great deal wider than it is.

MR. DAY: You claim that it was taken for the purpose of distorting something?

MR. LAUTER: I say it is an unusual photograph, and I call it to the attention of the Board.

MR. DAY: It seems that we cannot do anything without having some suggestion about bad faith or distortion.

MR. EDWIN S. SMITH: I think your statement goes entirely beyond anything having to do with the proceedings in this case. And also may I request you to adopt a somewhat less threatening tone towards this witness than you have used?

Q. (By Mr. Day) How many were on the steps there?

A. I suppose there were in the neighborhood of twenty-five or thirty or forty.

Q. Had you been inside the hall before that?

A. Yes.

Q. When did you first arrive at the hall?

A. I first arrived at the hall at 9:45.

Q. How long did you stay then?

A. I stayed until about 10:30.

Q. Who else was there when you were inside the hall?

A. Well, there was a fellow named Kessler and Mathias.

Q. How do you spell that?

A. Well, your guess on that is as good as mine.

Q. Who else?

A. Harold Ruttenberg and Joe Morton.

Q. And there were several others?

A. Yes.

Q. About how many?

A. I would say five or six in there.

Q. About how many were around the headquarters?

A. At 10:30?

Q. When you were there at the time you were telling about now.

MR. LAUTER: If the Board please, I would like to have the time fixed. It was about time to change the pickets, and, naturally, and necessarily, the crowd increased.

MR. DAY: I am asking him how many there were.

MR. LAUTER: If the Board please, I would like the time to be fixed. Time is rather important in this hearing, and I would like to have him fix time.

MR. EDWIN S. SMITH: I think that is proper. We must get that chronologically.

Q. (By Mr. Day) At nine forty-five you say you were inside of the house?

A. Yes.

Q. How many were there then?

A. I would say possibly fifty or sixty.

Q. How long did you stay there before the trouble started?

A. What trouble are you speaking of? We had two different little flare-ups. One was over at the viaduct.

Q. You did not see the one at the viaduct?

A. No.

Q. Then we will forget that. What time was the other flare-up?

A. Just a few minutes before 11.

Q. How many were there at that time?

A. I would estimate there were possibly 125.

Q. And had you been in the C. I. O. headquarters, or about C. I. O. headquarters all of the time from 9:45 until

a little before 11, or did you leave and then come back?

A. We left to attempt to go to the viaduct to see what the trouble was over there. When we got to Erie Street it was so suggested, and I noticed there were policemen up there, so I thought the best thing for me to do was to come around and come back.

Q. (By Mr. Donald Wakefield Smith) Erie Street is not the street which leads from the strike headquarters to the office of the Republic Steel?

A. No, sir; that is the main street that the viaduct runs off of.

MR. LAUTER: For the information of the Board, the street the strike headquarters were on was Cleveland Avenue. Erie Street is a parallel street.

Q. (By Mr. Day) You say the trouble started at C. I. O. headquarters and you were out on the steps?

A. Yes.

Q. With four or five men?

A. I didn't say with four or five men.

Q. How many were there?

A. I would say right on the steps there there were possibly fifteen, twenty, or twenty-five. I couldn't estimate how many there were.

Q. But outside the building?

A. Yes.

Q. You were standing close together?

A. Yes, we were standing rather close, yes.

Q. Can you name me any more of those than you have named?

A. No.

Q. Then what did you say happened?

A. There was a fellow drove up in an automobile.

Q. Where did he drive from?

A. His car was headed, or his lights were headed towards the mill, and I suppose he came in from Cleveland Avenue. What I noticed particularly was that the lights

were shining on the policemen down there, and I suppose they were more or less frightened, being new men. They acted kind of nervous, anyway.

Q. You mean the policemen did?

A. Yes. And one of them shouted "Take the lights off."

Q. One of the policemen did?

A. Yes; which he did.

Q. Where were the policemen with reference to the C. I. O. hall?

A. Lined up across the street about 50 feet down Cleveland Avenue, and some were sitting across the sidewalks.

Q. When you say down Cleveland Avenue—

A. I mean towards the mill.

Q. Can you indicate on this picture where they were?

A. Very close, I imagine. They were down about here.

MR. EDWIN S. SMITH: Will you mark that with a pencil?

THE WITNESS: Yes.

MR. EDWIN S. SMITH: I think it would be more material if instead of using this picture we would use the map which is in evidence.

Q. (By Mr. Day) Here is C. I. O. headquarters over here (indicating), where it says "C. I. O. 4193." Do you see that?

A. Yes, sir.

Q. District office here (indicating), Cleveland Avenue here (indicating). Oakland Avenue here (indicating). I suppose that is still Cleveland Avenue?

A. I guess so.

Q. Were you on the steps of the C. I. O. headquarters house?

A. Yes, sir.

Q. And where were the policemen?

A. Where were the policemen?

Q. Yes.

A. Well, I presume that this is possibly a block, or half a block.

MR. LAUTER: At this point I also want to point out this about the map: The lines that are extended across this map indicates presumably a section of the city plot blocks and are also not the best possible descriptions of that area there. I have been to that area, and I have some familiarity with it, and this map, for the same reason as that picture, is not a very good means by which this witness or any other witness can describe that place.

MR. DAY: We would be very glad if you would bring in another map or picture.

MR. LAUTER: Unfortunately this incident took place so recently that we have not had an opportunity to prepare maps.

MR. DAY: All right.

MR. LAUTER: And I would prefer this witness and other witnesses to testify from their knowledge, and not from maps with which they are unfamiliar, or from pictures with which they are unfamiliar.

MR. DAY: As far as we are concerned, we had the pictures made,—

MR. LAUTER: (Interposing) I believe we can get an adequate picture from the eye witnesses of what happened there.

MR. EDWIN S. SMITH: Where were the police, to the best of your recollection, this side of this place on Cleveland Avenue?

MR. LAUTER: May I point out the mill is in this area, right through here (indicating).

MR. EDWIN S. SMITH: Is this a street running through here (indicating)?

MR. LAUTER: It is not a street, and that is

precisely the point I am making.

MR. DAY: I don't think it appears as a street.

MR. LAUTER: That looks no different than any of these other marks here which clearly appear there to be streets, and I want to register my objection now to the use of the map at this time.

MR. EDWIN S. SMITH: Let us dispense with the map if it is not sufficient for the witness to identify where these things took place.

Q. (By Mr. Day) What did you say happened? You say a man came down Cleveland Avenue in an automobile and the lights were shining on the policemen, is that right?

A. That is right. I presume he came down Cleveland Avenue. His car was headed that way.

Q. Were you on the steps?

A. Yes, sir.

Q. Then what happened?

A. One of the policemen shouted to him to cut his lights off, which he did.

Q. Where was his car?

A. Along the curb.

Q. How far from C. I. O. headquarters?

A. Across the street.

Q. Across Cleveland Avenue?

A. Yes.

MR. EDWIN S. SMITH: Had the car come to a stop?

THE WITNESS: Yes.

MR. EDWIN S. SMITH: His lights were on and the policemen made him cut them off?

THE WITNESS: Yes.

Q. (By Mr. Day) What did you see?

A. I saw the fellow cut his lights off when they holloaed at him.

Q. All right. Then what happened?

A. It was only a few seconds after that until one

of the policemen holloaed, "Let them have it, break it down."

Q. Was that one of the policemen about fifty feet away?

A. I would say it was in the neighborhood of fifty feet. I didn't particularly measure it, I would think it would measure about fifty feet.

Q. About fifty feet from the point where this group of men were assembled?

A. Yes, sir.

Q. What happened next?

A. I saw the policemen drop down and start shooting.

Q. How many did you see drop down?

A. I saw one.

Q. Did you notice how he was dressed, or anything?

A. No, I could not say how he was dressed.

Q. You just saw one policeman drop down and start shooting?

A. That is all I saw.

Q. Did he start to shoot before or after he dropped down?

A. He started to shoot when he dropped down.

Q. Then what happened?

A. Well, I stood there a few seconds to determine whether he was shooting real bullets or not, and I thought they were dummies, and I thought it was a bluff, but when I found out it wasn't I thought I would do well to move.

Q. Where did you go?

A. I ran up Cleveland Avenue.

Q. In what direction?

A. Away from the mill.

Q. How far did you run?

A. About fifty yards until I came to an opening in the fence.

Q. While you were running you didn't see anything that happened?

A. Oh, yes.

Q. Were you running with your face towards the scene or away from the scene?

A. Why, I could see what was happening in front of me.

Q. Were there other men running with you?

A. Yes, sir.

Q. Where did you go?

A. I ran through the fence until I hit an alley parallel with Cleveland Avenue and ran out that alley.

Q. Where did you run?

A. Ran to McKinley Avenue and circled back and when Mr. Beckner came along hanging on the running board of a car and picked me up.

Q. And then you went back to Canton?

A. Yes, sir.

Q. How long do you suppose you were actually on the scene of the trouble after the first shots were fired?

A. Not a great length of time. I was around in the neighborhood. I would say around there possibly three quarters of an hour.

Q. What were you doing during that three quarters of an hour?

A. Keeping out of the way of bullets, mostly.

Q. Did you see any other shooting besides the first shooting?

A. Yes, sir.

Q. Where did those shots come from?

A. The policemen.

Q. At the same place?

A. No, a little further down.

Q. How far away?

A. Oh, they were on the strike picket line.

Q. Then you went back to Canton?

A. Yes, sir.

Q. Isn't it a fact that the first shots fired in that trouble were fired by the C. I. O. men themselves from a point on the steps in front of the C. I. O. headquarters?

A. It is not a fact.

Q. It is not a fact that some of the policemen, especially Captain Curley, came up close to the C. I. O. headquarters where the C. I. O. men were assembled and asked the crowd to disperse, calling their attention to the rule announced by the Court in the order of injunction granted? Isn't it a fact that after that these police and Captain Curley,—

MR. DONALD WAKEFIELD SMITH: (Interposing) What ruling of court are you referring to there?

MR. DAY: The ruling of the Common Pleas Court.

MR. DONALD WAKEFIELD SMITH: In regard to the injunction in Canton?

MR. DAY: It was a county-wide injunction.

MR. DONALD WAKEFIELD SMITH: Was this presumed to be picketing in front of union headquarters? As I recall that injunction, so far as picketing was concerned, it didn't prevent a peaceful assembly.

THE WITNESS: That injunction didn't apply to Massillon.

MR. DONALD WAKEFIELD SMITH: I would be interested to know that.

THE WITNESS: The injunction was for Canton. They tried to have Massillon included and the Judge, Judge Graham, would not allow Massillon to be combined in this.

MR. DAY: That is not our information. We haven't accurate information, but we will get it and put it in the record.

MR. DONALD WAKEFIELD SMITH: I think

the wording of the injunction did not prohibit peaceful assemblying.

Q. (By Mr. Day) Didn't he ask the crowd to disperse?

A. I didn't hear him.

Q. Wasn't he greeted with a shower of stones?

A. No, sir.

Q. Wasn't it a fact that four or five shots were fired from the front of the C. I. O. headquarters by C. I. O. men?

A. Absolutely not.

Q. Weren't you there when the shots were fired?

A. There were no shots fired from the C. I. O.

MR. DAY: That is all.

MR. EDWIN S. SMITH: Do you know Captain Curley?

THE WITNESS: No, sir.

MR. EDWIN S. SMITH: Was he pointed out any time that night?

THE WITNESS: I could not identify Captain Curley. Some one told me he was there; yes, sir.

MR. EDWIN S. SMITH: Did anybody that might be Captain Curley or anybody else make any such remark that you heard?

THE WITNESS: No, sir, he did not.

Q. (By Mr. Day) Are you under arrest now in connection with the riot?

A. Am I under arrest?

Q. Yes.

A. Not to my knowledge.

Q. Were you arrested in connection with the riot, either at Canton or Massillon?

A. No, I was picked up by some National Guards when I was absolutely doing nothing and slammed in jail.

Q. Where was that, in Massillon or Canton?

A. Canton.

Q. Is that charge still pending against you?
A. I don't think it is.

Redirect Examination

Q. (By Mr. Lauter) You testified about an agreement to disarm. What do you mean? Describe precisely what you mean, what kind of weapons did the C. I. O. have in their possession?

A. What are you referring to?

Q. You testified on cross examination there was an agreement to disarm by those inside the plant.

A. That is right, Colonel Lawler and the sheriff,—

Q. (Interposing) I am not interested about going to the extent of explaining all that.

MR. EDWIN S. SMITH: Suppose we let him do that.

THE WITNESS: They called a meeting at the request of the Mayor and Colonel Lawler, and we came to the Mayor's office. The Mayor was present, the sheriff was present, the Chief of Police and the Safety Director, and Paul Know, and I think Bert Tennyson.

MR. EDWIN S. SMITH: Who are Paul Know and Bert Tennyson?

THE WITNESS: Paul Know and Bert Tennyson are attorneys, and we met there to try to work out some kind of proposition that would be satisfactory to everybody in regard to picketing, and we had noticed from observation that the pickets on the inside of the mill, the workmen on the inside of the mill, they would rush to the picket line and they carried clubs, stones and rocks and everything else, and the non-strikers were carrying clubs, and, I think even went so far as to carry guns on them, so we assembled there and

tried to work out some way to get rid of this thing. So we agreed when the mill men inside would disarm of their weapons and non-strikers would disarm all their weapons we would be willing to do anything they would do and the mayor had agreed to disarm.

MR. DAY: Was this the Mayor of Canton or Massillon?

THE WITNESS: Canton, and he agreed to disarm all the union strikers and Colonel Lawler took it upon himself to go inside the mill and see that everybody laid down their slingshots. There were slingshots that shot steel balls.

MR. EDWIN S. SMITH: Did they shoot at pickets?

THE WITNESS: Yes, and we secured one of those slingshots. It looked almost perfect, like it was made by a machine and I should say you could shoot a steel ball a mile with it, and I think Colonel Lawler has that in his possession yet. So, he went in to see them lay down their arms, but the meeting broke up and there wasn't anything agreed by anybody. There wasn't anything accomplished because the two attorneys told the mayor he had his chin out too far and there wasn't any agreement of any kind and nothing done.

MR. EDWIN S. SMITH: You said something about the men inside the mill marching toward the picket line?

THE WITNESS: Yes.

MR. EDWIN S. SMITH: What do you mean by that?

THE WITNESS: About every evening, and sometimes in the morning, there would be 150 or 200.

MR. DAY: Is this Canton or Massillon?

THE WITNESS: Canton.

MR. EDWIN S. SMITH: Where did this shoot-

ing with slingshots take place, at Massillon or Canton?

THE WITNESS: No, that came out of Canton.

MR. EDWIN S. SMITH: You are not testifying about Massillon?

THE WITNESS: No, sir.

Recross Examination

Q. (By Mr. Day) You live in Canton?

A. Yes, sir.

Q. And you spent most of your time in Canton during the strike?

A. Oh, I would not say that. I spent time in Canton and Massillon, and, of course, at Carlton.

Q. And you were over at Massillon the afternoon of that Sunday, weren't you?

A. Yes, sir.

Q. Did you go close to the headquarters after the meeting?

A. Yes, sir.

Q. You came back at nine thirty?

A. Yes, sir.

Q. Did you expect something to happen?

A. No, sir.

MR. DAY: That is all.

MR. DONALD WAKEFIELD SMITH: May I ask a couple of questions, please.

Do you know Mr. Haley in Massillon?

MR. DAY: His full name is Lincolnhaley.

THE WITNESS: I don't know the gentleman, but I heard a lot of talk about him.

MR. DONALD WAKEFIELD SMITH: You don't know him when you see him?

THE WITNESS: No, sir.

MR. DONALD WAKEFIELD SMITH: May I ask this question. You say there were about 125 pick-

ets, we won't say pickets, but 125 persons in front of strike headquarters, in front of strike headquarters at about ten forty-five when the shooting started?

THE WITNESS: It started later than ten forty-five. I would say it was around five minutes of eleven.

MR. DONALD WAKEFIELD SMITH: I will follow with this question. Was it customary for pickets to assemble at strike headquarters immediately prior to the change in the picket shift?

THE WITNESS: That is right.

MR. DONALD WAKEFIELD SMITH: Was that the reason there was 125 persons there at that time?

THE WITNESS: That is right.

MR. DONALD WAKEFIELD SMITH: Another question. How long a period of time elapsed from the time this police officer said to the driver of the car which was coming toward them to take the lights off until the shooting started?

THE WITNESS: Well, as well as I could estimate between half a minute and a minute.

MR. DONALD WAKEFIELD SMITH: Did it appear to you as though that might have been a prearranged signal?

THE WITNESS: Well, I could not say that. I would not want to say that.

MR. DONALD WAKEFIELD SMITH: That is all.

MR. DAY: That is all.

(Witness excused.)

MARTIN J. BECKNER

a witness called for and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Lauter) State your name.

A. Martin J. Beckner.

Q. Where do you live?

A. 1549 Harrisburg Road, Northeast, Massillon, Ohio.

Q. Have you been employed by the Republic Steel Corporation?

A. Yes; about nine years.

Q. When did you start work for them?

A. 1925.

Q. How long did you work for them?

A. Until 1931, and left the employment of the Republic Steel Corporation to go into business for myself. I was re-employed by them in 1933 and in June of 1935 I was discharged because of the strike at the Republic Steel Corporation, and on January 1, 1936, was re-employed in the Canton Tin Plate Company of the Republic Steel and I am working there at the present time.

MR. DAY: What did you say?

THE WITNESS: I am working there at the present time.

Q. (By Mr. Lauter) You mean what?

A. I am still employed there.

Q. You consider yourself an employee of the plant?

A. Yes, sir.

Q. You went on strike?

A. Yes, sir.

Q. When?

A. May 25, 1937.

Q. Have you been associated with the Steel Workers Organizing Committee?

A. Yes, sir.

Q. When did you join the Steel Workers Organizing Committee?

A. September, 1936.

Q. Do you hold any position in that organization?

A. Yes, sir, I am vice-president of All Nations Lodge No. 1200, and president of the Stark County Council for industrial organization.

Q. Are you familiar with the strike headquarters in Massillon, Ohio?

A. Yes, sir.

Q. Located on Cleveland Avenue?

A. Cleveland Street.

Q. Well, it goes by both names. Did you visit headquarters on Cleveland Avenue on July 11, 1937?

A. Yes, sir.

Q. Who was with you?

A. Frank Hardesty and Harold Ruttenberg.

Q. When did you arrive there?

A. About a quarter of ten.

Q. What did you see when you got there?

A. At the time 50 or 60 strikers or sympathizers were around headquarters, and some of them were eating in the office, and a man sitting at the telephone desk, I believe his name was Tom Workum, president of the Massillon Local, and several members of the lodge and Mr. Hardesty and myself.

Q. What happened after nine forty-five?

A. I was talking to some of the men and some of them said it was about time for the scabs to go into the mill and I asked how many carloads went in and they told me they didn't know, and I asked one to take me down on Erie Street, so I could get an estimate and take it back to the lodge in Canton.

Q. What happened?

A. I went down and it was a little early, and I asked a fellow to go with me and get a glass of beer, and while we were in there we heard a crash and there was cars lined up in the street and these special policemen were shooting

tear gas and pistols and machine guns up the street and I left the scene.

Q. Erie Street is located how far from strike headquarters?

A. It is some distance.

Q. You then returned to strike headquarters?

A. Yes, sir.

Q. What did you see when you got back?

A. There were more pickets there. It was getting close to time to change shifts. The shift at Canton changed at 12 o'clock. I went on into headquarters and asked Harold Ruttenberg what time it was and he said it was about ten thirty. I stepped back out the door, and I noticed these police were down there, quite a few of them.

Q. Where were the policemen?

A. About fifty feet south.

Q. The police were between the plant and strike headquarters, is that right?

A. Yes, sir.

Q. Did you notice anything about how they were arranged?

A. I noticed there were quite a few more than usual and they were deployed across the street.

Q. What?

A. They were deployed across the street, and some spread out and some closer than others, and I noticed there was something unusual about them, and after watching a little bit I noticed they all had guns, but up until that time they only had clubs.

Q. Did you know what the usual number of police around the strike headquarters were about that time?

A. Sure, five or six.

Q. How many did you notice on July 11th?

A. I estimated between 25 and 30.

Q. Did it strike you that they were conducting themselves in any particular fashion or manner?

A. Yes, it appeared they were nervous, acting like men expecting something, and from the way they were acting I went into headquarters and asked the president of the Massillon lodge if that was their usual method of conducting themselves.

Q. What happened inside headquarters?

A. We started discussing it then, and Mr. Harold Ruttenberg and myself and Mr. Claude Cooley, and we decided that these men were new men and we had better ask the pickets outside to go home.

Q. About what time did you change pickets at the plant?

A. Eleven o'clock. So the president of the Massillon Lodge stepped out to tell these men to go home, and when he went out the door I stepped outside the door and stood on the step and Harold Ruttenberg was standing in the doorway.

Q. What happened?

A. A car pulled up across the street and two men came out and Bill Henderson,—

Q. (Interposing) Bill Henderson was a policeman?

A. Yes, sir.

Q. Who was he?

A. He was a chipper foreman in the Massillon plant.

Q. He was a special policeman on the line you saw there on July 11th?

A. Yes, sir.

MR. EDWIN S. SMITH: You mean a foreman in the chipper department?

THE WITNESS: Yes.

Q. (By Mr. Lauter) Explain what happened.

A. They started forward.

Q. Who started forward?

A. Mr. Henderson and the other policeman.

Q. Do you know who the other person was?

A. They came forward toward the car. I didn't

know who the other man was, but they told the driver to put those damn lights out or they would shoot them out.

Q. Where was that car located?

A. It was across the street, about fifty feet further down.

Q. A little further down?

A. Yes, sir.

Q. Right across the street?

A. Yes, sir.

Q. Then what happened?

A. The man switched out the lights and these two officers started back toward the line of police and someone in the crowd of pickets yelled "Whoopee," or something.

Q. What is that?

A. These two officers started back toward the line of police and somebody in the crowd yelled "whoopee," or something.

MR. DAY: They yelled whoopee?

THE WITNESS: Yes, whoopee; and these officers immediately dropped to the ground and someone said "break them down and let them have it," and the shooting started about fifty feet down from the strike headquarters on the southwest corner.

Q. (By Mr. Lauter) Was there shooting by anybody else?

A. Shotguns, machine guns and bullets from these special policemen located south of the strike headquarters.

Q. At any time you were on the scene did you see any shooting from C. I. O. headquarters?

A. There was not.

Q. During the entire evening did you see or hear any shooting by any of the C. I. O. men?

A. No, sir.

Q. Did you see any shooting by anyone else besides the police?

A. I did not.

Q. Describe what happened after the shooting started.

A. When they started shooting I went around strike headquarters on the north side of the building until I came to a lane.

Q. Were you running around?

A. Until I came to a lane running parallel with Cleveland Street, and I went up the lane to McKinley Avenue and turned west and came out on Cleveland Avenue again and seen some people from Canton in a car with two women and I told them to get the women out.

Q. Why did you tell them to get the women out?

A. Because I didn't want to see the women shot.

Q. What did they do?

A. They started up the street.

Q. What did you do?

A. I started over to—I went toward the Massillon headquarters and saw a man lying face down in the street and every once in a while the police were shooting gas shells, and I said, "Let's get that fellow out," and we carried him up to the corner of Cleveland Street and McKinley Avenue and a car came up with two men and two women in it.

Q. Did you recognize or notice how this man was dressed?

A. The only thing I could recognize was he had on a brown coat.

Q. All right.

A. We stopped the car and put the man in it and asked them to take him to the Massillon City Hospital, and a second man had fallen and we picked this man up and he had been hurt in the shoulder.

MR. DONALD WAKEFIELD SMITH: Was that in the front or back of the shoulder?

THE WITNESS: I could not tell, but he was able to walk, and by this time the special police started

shooting at us and we started to McKinley Avenue.

Q. (By Mr. Lauter) When you put this man in the car, where did you put him?

A. In the back seat.

Q. Laid him on the back seat?

A. That is right.

Q. What happened to the second man?

A. He was still with us and the special policemen were lined up on the west side of the street and some were still coming up Cleveland Street shooting gas shells and buckshot and these other policemen lined up across from strike headquarters and every once in a while you could hear the gas guns and these special policemen went on up to another street running parallel with Cleveland Street and I seen this car with the Canton people in it and asked them to take Mr. Wilson—that was the name of the man that had been shot, and another car came along and I stepped on the running board and I got on it and we drove back to Canton.

MR. DONALD WAKEFIELD SMITH: This shooting occurred while you were running away?

THE WITNESS: Yes.

MR. DONALD WAKEFIELD SMITH: Was anybody else running away with you?

THE WITNESS: Yes.

MR. DONALD WAKEFIELD SMITH: The shooting was still going on?

THE WITNESS: Yes.

MR. LAUTER: That is all.

Cross Examination

Q. (By Mr. Day) You live at Canton?

A. Yes, sir.

Q. Were you at the meeting at Massillon?

A. No, sir.

Q. Had you been to Massillon the day before?

A. No, sir.

Q. Why were you going over there Sunday night?

A. It was my duty to help get out the strike bulletin, and I went to get all the information I could.

Q. How often would you go to Massillon?

A. Sometimes twice a day and some days I didn't go at all.

Q. How often would you go to Massillon at night?

A. Whenever I got an opportunity for a ride.

Q. You went with Mr. Hardesty and Mr. Ruttenberg?

A. That is right.

Q. The first trouble which you saw was down at the beginning of the viaduct?

A. The trouble I seen was on Erie Street.

Q. Almost at the entrance of the viaduct on Erie Street?

A. No, sir; something like fifteen or twenty feet.

MR. DAY: May I use this map for the purpose of showing where the viaduct is and Erie Street?

MR. EDWIN S. SMITH: Yes, sir.

Q. (By Mr. Day) Mr. Witness, will you step here. This is Erie Street here (indicating).

A. That is right.

Q. Here is the beginning of the viaduct running into Oberlin Avenue (indicating)?

A. Yes, sir.

Q. Where was the trouble?

A. In Erie Street, three doors above the car.

Q. You weren't there when the cars got jammed into the opening of the viaduct?

A. No, sir.

Q. That happened, that was before you got there?

A. Yes, sir.

Q. And the trouble was up Erie Street?

A. Yes, sir.

Q. You say these policemen were shooting tear gas

into the crowd?

A. Yes, sir.

Q. Nobody was injured, were they?

A. No, sir; not to my knowledge.

Q. Then you went on to strike headquarters?

A. Yes, sir.

Q. I understood when you got back to strike headquarters you were with Hardesty when the trouble started.

A. When the shooting started I didn't know where Mr. Hardesty was standing.

Q. Just where were you?

A. I was on the steps, the first step just outside the door of strike headquarters.

Q. How many men were with you?

A. Just the exact number?

Q. About how many?

A. Between one hundred and seventy-five.

Q. How many were assembled together in front of the strike headquarters there in one bunch?

A. Almost all the pickets, changing shifts were lined up. You could hardly say.

Q. Can you give us any idea how many were with you?

A. I had my back turned to them.

Q. Was Ruttenberg with you?

A. He was at my left shoulder.

Q. Was Hardesty there?

A. I don't know just where he was standing.

Q. Where were the police?

A. Fifty feet up the street.

Q. And you say they opened fire after something had occurred about putting out the lights, and you say they had a machine gun?

A. I would say it was a machine gun.

Q. What do you base that on?

A. The way it was shooting.

Q. How far were these men standing from the gun?

A. About 50 feet.

Q. How many were standing there when that machine gun began to fire?

A. Between 150 and 200.

Q. In one assembly?

A. They were on the street; yes, sir.

Q. Was anybody shot at that time?

A. I was in such a hurry I didn't notice.

Q. You didn't notice?

A. No, sir.

Q. You say 50 feet away the machine gun was firing and there was also machine guns and pistols being fired?

A. That is right.

Q. There wasn't any obstruction between the machine gun and the assembly of men in the C. I. O.?

A. There wasn't, the machine gun was shooting towards the doorway.

Q. Were your men in front of the doorway?

A. Mr. Ruttenberg was in the doorway. I was on the steps.

Q. How many rounds did the machine gun shoot?

A. I don't know.

Q. How long were you there before you started away?

A. About one minute.

Q. About one minute?

A. Yes, sir.

Q. Prior to that time you saw a man named Henderson?

A. Yes, sir.

Q. A special policeman?

A. Yes, sir.

Q. And he had been a foreman for the Republic Steel?

A. The last time I talked with him he was still a foreman.

Q. And with Henderson was another man?

A. Yes, sir.

Q. How were they dressed?

A. They both had blue shirts on. I didn't notice their hats. I noticed their hips and they both carried guns.

Q. Were those men standing up?

A. Yes, sir.

Q. Were they walking?

A. Yes, they were walking toward the car across the street from headquarters.

Q. As these two men, one whom you recognize as Henderson, were walking, were they getting closer to C. I. O. headquarters?

A. Coming closer on the opposite side of the street.

Q. You say one of these men said something.

A. He told him to turn off the lights.

Q. Was that Henderson or the other man?

A. I don't know.

Q. And somebody in the pickets somewhere yelled "Yippee?"

A. Yes, sir.

Q. Then they started firing?

A. Before the Yippee they started down the street and said, "Let them have it."

Q. And you ran away?

A. I ran as soon as it happened.

Q. Where did you go.

A. I went around the north side of strike headquarters to a lane running north and south, and I ran up that lane about 220 yards.

Q. Where was it you noticed the man lying on the street with the brown coat on?

A. About 200 yards back down the street.

Q. How long would you say it was after the firing that you saw him?

A. Four or five minutes.

Q. When did you notice the man shot in the shoulder?

A. When we were carrying the man by.

Q. Then you finally got in the car and went to Canton?

A. Yes, sir; that is right.

Q. I will ask you if it is not a fact the first shots fired were fired by C. I. O. men off the C. I. O. steps?

A. That is impossible.

Q. That isn't so?

A. That is impossible. That isn't so.

MR. DAY: That is all.

MR. EDWIN S. SMITH: Why wasn't it possible?

THE WITNESS: I was standing on the steps and Mr. Ruttenberg was standing in the doorway.

Q. (By Mr. Day) Was there any firing by anybody in and about the strike headquarters?

A. By the special policemen.

Q. Any firing from the other side at all?

A. No, sir; no guns on the other side.

MR. DAY: All right; that is all.

MR. EDWIN S. SMITH: Did you recognize Captain Curley among these special policemen?

THE WITNESS: I did not know Captain Curley.

MR. EDWIN S. SMITH: Did anyone make a speech as described by Counsel when he was questioning the last witness?

THE WITNESS: What speech?

MR. EDWIN S. SMITH: To disperse.

THE WITNESS: The only thing Captain Curley said was to turn out the lights.

Redirect Examination

Q. (By Mr. Lauter) I am not entirely sure that I

understood where the yell came from to break it up and let them have it.

A. It came from the policemen.

MR. LAUTER: That is all.

(Witness excused.)

MR. EDWIN S. SMITH: We will recess for 5 minutes.

(Thereupon, at 3:45 o'clock p. m., the hearing was recessed until 3:50 o'clock p. m. of the same day.)

WALTER A. MEYER

was thereupon called as a witness for the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Lauter) What is your name?

A. Walter A. Meyer.

Q. Where do you reside?

A. Worcester Street, Navarre.

Q. Are you an employee of the Republic Steel in Massillon?

A. Yes, sir.

Q. What kind of work?

A. Rougher.

Q. R-o-u-g-h-e-r?

A. Rougher.

Q. Are you married?

A. Yes, sir.

Q. Have you any children?

A. Yes.

Q. How many?

A. Three.

Q. Three children?

A. Yes, sir.

Q. Are you a member of the C. I. O.?

A. Yes, sir.

Q. When did you join?

A. October or November, 1936. It was either October or else November, 1936.

Q. Do you recall July 11, 1937?

A. Yes, sir.

Q. That was a Sunday; is that right?

A. Yes, sir.

Q. Did you go to Sippo Park on that day?

A. Yes, sir.

Q. Describe what happened during the afternoon of July 11, 1937?

MR. DAY: We will take this all under objection and exception.

MR. EDWIN S. SMITH: Very well.

THE WITNESS: On July 11th—

MR. DAY (Interposing): Sippo Park is in Canton?

MR. LAUTER: That is right.

THE WITNESS: On July 11th my wife and I started up to Massillon to hear the—

MR. DAY: I can't hear a word the witness says.

MR. EDWIN S. SMITH: If the witness would only speak a little louder.

MR. DAY: Did he say Sippo Park in Canton?

MR. LAUTER: That is right. I would like this witness to speak a little louder.

THE WITNESS: On July 11th, on Sunday afternoon, we had a mass meeting at the Oak Knoll Park, and my wife and I went to that meeting and after the meeting I met Mr. and Mrs. Wincek.

BY MR. LAUTER:

Q. When did you arrive at the meeting?

A. Two o'clock. The meeting lasted until 4 o'clock Sunday afternoon, and then I asked Mr. Wincek if he would

go along with us to the meeting in Canton at 7:30 in Sippo Park, and he said sure.

Q. That is Mr. and Mrs. Wincek?

A. Yes, sir.

Q. That is Wincek?

A. And my wife and I drove home after the meeting, and Mr. and Mrs. Wincek came down to our house after the meeting, and they left their car at the house and got in our car, and my wife and I and Mr. and Mrs. Wincek drove over to Sippo Park in Canton to attend that meeting at 7:30, but it rained all the while we were going over and it didn't look as though there was going to be a meeting, and people were running out of the rain, and we drove up on Mahoning Road near Sippo Park and it poured down rain, and it rained for probably a hour an hour or so after we got there, and after the rain had let up it was still misting a little bit and it seemed the people gathered back to hear the mass meeting.

Q. This meeting was scheduled to take place at 7:30?

A. Yes, sir.

Q. About what time did it actually take place?

A. I think around 8 or 8:30.

Q. What happened after that?

A. We seen these people walking toward the park to hear this meeting, and me and my wife and Mr. and Mrs. Wincek got out of the car and walked to Sippo Park and the meeting lasted, I would say, until 10 o'clock. After the meeting we got in our car and I didn't know just where we were going, and we drove down Mahoning Road until we got to East Tuscaranas Street, and Mr. Wincek said after we got down toward East Tuscaranas Street, "If you will stop at the 'Trail' beer joint, I will buy each one a small drink." I said that is more than I can do because I am broke, so I drove down there and we each drank a small beer, and after we did that we went out and got in our car.

Q. Who got in the car?

A. Mr. and Mrs. Wincek and my wife and myself.

Q. What happened after that?

A. We started toward home. We were driving along slow and it was either my wife or Mrs. Wincek mentioned something about going over to the C. I. O. headquarters at Massillon to get a bowl of soup.

Q. Get a bowl of soup where?

A. At C. I. O. headquarters.

Q. Is that in Massillon on Cleveland Avenue?

A. Yes, sir.

Q. Why were you going over to get a bowl of soup? Did you generally go over there to get a bowl of soup?

A. No, sir; I never took my wife over there. I read so much about riots, I always told my wife I didn't think it was a place for a woman to be.

Q. What did she say? Did you go over there?

A. It was mentioned about getting the bowl of soup but she didn't say anything much. After we went out in the evenings we always stopped and got a bowl of soup or lunch or something before we turned in for home, but this evening I was broke and Mr. Wincek didn't have much money either, and when they mentioned about getting the bowl of soup at C. I. O. headquarters on Cleveland Avenue at Massillon we figured it would be a good place to go and get something to eat before we went home, so we all agreed to do so and we drove over there and we drove down Cleveland Avenue north and pulled right directly across from C. I. O. headquarters and parked.

Q. You say you pulled down Cleveland Avenue from the north. Is that going in the direction of the mill?

A. Yes, sir.

Q. And where did you pull in?

A. I parked right directly across from C. I. O. headquarters.

Q. On what side of the street?

A. On the righthand side of the street.

Q. Facing the mill?

A. The west side.

Q. The west side?

A. It would not be facing the mill.

Q. In the direction of the mill; is that right?

A. The mill is directly south, in my estimation, from Cleveland Avenue, and the C. I. O. headquarters is on the east side of the street, and I parked directly across the street, which is the west side.

Q. Directly across the street from C. I. O. headquarters?

A. Yes, sir; and I pulled in there to park and I noticed there was a fireplug back of me, so I pulled up six or eight feet from it and parked. We were there for some time and quite a few people were standing around there talking and having a good time, and we were discussing whether we wanted to go in and get a bowl of soup or go back home.

Q. Who were you discussing this with?

A. My wife and Mr. and Mrs. Wincek.

Q. Who were in the car?

A. Yes, sir. So while I was discussing that with them, I seen a car coming down Cleveland Avenue and passed our car and pulled in directly ahead of us and passed the fireplug and parked directly ahead of us.

Q. Was that on the same side of the street you were?

A. The same side of the street, and I judge it was 20 feet between my car and this man's car. The man pulled up and he shut his motor off and I heard the cops holler "Turn them lights off." I don't think the man heard the cops when they called the first time. Well, the man was getting out of the car, and he stepped on the pavement, and they hollered a second time, "Turn those lights off or we will shoot them off," so the man reached in and shut them lights off, and he started toward the C. I. O. headquarters and there were so many people standing around there I

could not tell how far he went, and I didn't pay any more attention to him.

Q. Did you notice the number of people there in the crowd around C. I. O. headquarters?

A. I would surmise around 200 people.

Q. Was any police around there?

A. I would say at least 25 lined across the street, just about fifty or sixty feet ahead of my car on Cleveland Avenue.

Q. Did you notice any of the policemen you knew?

A. Dale Kriger.

Q. How do you spell his name?

A. I don't know.

Q. Dale Kriger?

A. Yes, sir.

Q. And he is one of the special policemen?

A. Yes, sir.

Q. Did you know anything about him?

A. He used to be a time spotter in the hot mill.

Q. Dale Kriger was a policeman who used to be a time spotter in the Massillon mill?

A. Yes, sir.

MR. EDWIN S. SMITH: What is a time spotter?

THE WITNESS: We have cards over there. Every day we punch our own cards, but we used to have time spotters, but each man now takes care of his own card. He takes the card out of the rack and punches it and puts it back. Before they had these regulations we used to just go into work and the time spotter would come through the mill and check our badge numbers and names, and that was what Dale Kriger was doing at that time.

MR. EDWIN S. SMITH: You say you recognized him among these policemen who were standing there that night?

THE WITNESS: Yes.

BY MR. LAUTER:

Q. At the time you are presently discussing, was the windows of your car up or down?

A. Down. All the windows were down.

Q. Will you describe what happened after that?

A. Well, we sat there with the windows all down and after this man left that car I turned around toward Mr. and Mrs. Wincek and my wife, and asked them the last time what they intended to do, if they wanted to go in and get a bowl of soup or if they wanted to go back home. While they were arguing about it, at that time I heard the motor start in the car ahead of me and I looked around quick and seen his bright lights were on, and without warning there were two shots fired, and the shots sounded as though they hit the car ahead of us, and I surmised that they were shooting at the man's lights because they had said before they were going to shoot the lights off, and just at that time the shots were fired, it all happened, I heard the cops holler "the God damn hunkies asked for it." "Let us give it to them."

Q. "The God damn hunkies asked for it, let us give it to them."

A. "Let's give it to them." It was just like hail storm hit my car, sounded like machine guns and shotguns, it sounded like the 4th of July, or something, at the lake, and I seen all the people just pick up and run and run around corners, anywhere they could go, and after that, why, the shooting kind of quieted down.

Q. At the time the shooting started what did the occupants of your car do?

A. I told them to duck.

Q. Did they duck?

A. Yes, I say they ducked.

Q. Did you duck?

A. You bet your life.

Q. Go on.

A. After the first volley was over the people pretty well cleared the street in front of headquarters and it quieted down after the first volley, and I raised up and started my motor up; I figured I had better get out of it, and just as I raised up there was a tear gas bomb dropped about six feet ahead of my car and right away I hollered at Mr. and Mrs. Wincek to roll them windows up and roll them windows up as soon as possible, and attempted to start and get away from there, and just as I done that the second volley came and the second time I told them to duck and stay ducked, and I went down myself, and we laid there until the second volley was over, and I said to Mr. Wincek "we have got to get out of here one way or another," so I raised up high enough that I could see out with my left eye, and I put my car in low gear and pulled up about eight feet, and I cut my wheels real short and the third volley came and I didn't stop, and I hit the car back of me and I backed up the street all through the third volley and backed into an alley, and the third volley was over the minute I backed into the alley. I shot in low gear and went up the street in high speed and I drove up there pretty near a block, and I seen at least a dozen men standing around there, and I think there was a couple more there, and I seen two men holding one man between them, and somebody hollered "Take this man to the hospital."

Q. By the time you got to that corner were your wife and Mr. and Mrs. Wincek still in the car?

A. Yes, sir.

Q. Go ahead.

A. I stopped my car and I told my wife and Mr. and Mrs. Wincek to get out on the street in order that we would have room to take these men to the hospital. These two men were holding one man, and we loaded this man in the back seat, and one man sat down on the back seat and held this wounded man's head.

Q. Was the man who held his head wounded?

A. No.

Q. Go ahead.

A. But there was the man got on the front seat, and he said he got shot in his right shoulder. He was holding his hand on his right shoulder while I was going to the hospital.

While we were driving up to the hospital this man lying on the back seat was moaning and suffering terribly. He said, "Boys, I am dying." I rushed the man up to the hospital at high speed. We put him on a stretcher up there and took them up on the second floor on the elevator. I helped lift the man on the bed and pulled his pants off. Right away I rushed out of there and I figured maybe the rest of them might be in danger down there.

Q. When you say the rest of them whom do you mean?

A. My wife and Mr. and Mrs. Wincek. And I rushed down to my car and beat it right back to where I left my wife and Mr. and Mrs. Wincek. When I got there my wife and Mr. and Mrs. Wincek were not there. There were some other men standing there at the corner. Mr. Joe Morton picked up a tear gas shell that landed right on the corner there and up along the street. I was standing there looking at that, and Mr. Wincek hollered up the street and said, "Hey, Walt! I am up here." So I went in my car and drove on up the street and I picked up my wife and Mr. and Mrs. Wincek.

From there I drove clear up Massillon, up on State Street where Mr. and Mrs. Wincek lived. When I got up there Mr. Wincek said, "My car is down at your house." We must have been a little excited at the time. I turned down around and drove back down to Navarre, and Mr. and Mrs. Wincek took their car and went back home to Massillon.

Q. Do you know whether or not the man you took in your car, who was lying in your back seat, died?

A. Yes. I went up to C. I. O. headquarters on East Main Street in Massillon the next day, and some of the boys up there came up to me and told me, "You know that fellow you took to the hospital last night?" and I said "Yes." They said, "Well, that fellow died this morning."

Q. Will you describe the condition of your car after the shooting?

A. When I got home that night I shut the key off in my motor. The motor continued running. I could not figure why the motor did not stop. Mr. Wincek said, "I bet you have got holes in your radiator." I just happened to think it would be no wonder, with all of the shots that hit our car, that there would be holes in my radiator. The car ran for at least a second and finally died away. From curiosity I drove around back of the house and took my garden hose and stuck it in the top of the radiator, and water just gushed out all of the radiator. The windshield was all shattered from being shot. I don't think there were any rifle shots or machine gun shots hit our car. It was practically all buckshot. It shattered the windshield and the body over the windshield, and the body down along the sides of the windshield, and both fenders. The left windshield was shattered.

Q. When you say the left windshield was shattered, you mean the left plate on the lefthand side of the car?

A. Yes, the left door window. I counted ten shots that went through the radiator that landed back of the motor up against the dashboard, I would call it. We stayed there a little bit and talked about that, and Mr. Wincek said, "I am going on home." So he went on home.

Q. During all of the time that you were there did you see any shots come from C. I. O. headquarters?

A. No, sir; none whatever. I didn't see no flashes; and I didn't see no shots, and I didn't see anybody whatsoever have a gun.

Q. Did you see anybody shooting except the police?

A. No, sir.

MR. LAUTER: That is all.

Cross Examination

BY MR. DAY:

Q. You ducked down most of the time while the shooting was going on, didn't you?

A. Not all of the time.

Q. Most all of the time, I say?

A. At the first and second volley I did. I did quite a bit of ducking.

Q. I can't quite understand what direction on Cleveland Avenue you were going. Will you please come up here and show us on the map.

A. Yes, sir.

Q. Here is Erie Street in Massillon.

A. Yes, sir.

Q. And here is the beginning of the viaduct (indicating).

A. Yes, sir.

Q. And the viaduct runs down here.

A. Yes, sir.

Q. And here is Oberlin Avenue?

A. Yes, sir.

Q. And that is the sheet mill there, isn't it?

A. Yes.

Q. And here is Cleveland Avenue coming up here and running down here, and over here is C. I. O. headquarters?

A. Yes, sir.

Q. You can get a general idea by looking at this map?

A. Yes, sir.

Q. Just talk a little louder, please, so that the Reporter can get what you are saying.

A. Yes; I understand that part of it, so far as you have went.

Q. You went to a mass meeting at Oak Knoll Park or Sippo Park?

A. Oak Knoll Park.

Q. Then you went to the park at Canton?

A. I went home first. That meeting at Oak Knoll Park was scheduled at 2 o'clock and lasted until 4 o'clock in the afternoon. Then my wife and I went home and ate supper, and we stayed around there until probably 7 o'clock.

Q. You live in Navarre?

A. Yes, sir.

Q. About how far from Oak Knoll Park is that?

A. I would judge it would be about 5 miles.

Q. Then you drove down to Menisitto Park in Canton? Is that right?

A. About 7 o'clock that evening.

Q. That is about how far from Navarre, the way you drove?

A. Ten miles.

Q. Then after that you went in to some place and got a couple of beers?

A. Yes, after the meeting was over.

Q. Then you decided you wanted a bowl of soup?

A. Yes.

Q. And you thought the best way to get that bowl of soup was at C. I. O. headquarters?

A. Yes.

Q. When you came down in front of C. I. O. headquarters you were on Cleveland Street?

A. Yes.

Q. Which way were you coming?

A. South.

Q. You were going down the way my hand is here (indicating on map)?

A. Yes. I didn't understand these other streets. I could not say what streets I came through.

Q. This is Cleveland Avenue.

A. This street I came out.

Q. How far did you go before you came to a stop?

A. I would say just directly across from C. I. O. headquarters.

Q. About what time of night was that?

A. Around 10:30.

Q. It was after dark, wasn't it?

A. Yes.

Q. What are the lights around there?

A. They seemed to be lights on the main building.

Q. On the office building?

A. Yes. But I can't tell just where they were located.

Q. Were there any lights right in front of C. I. O. headquarters?

A. Yes. There was a pole I would say about 20 feet south of C. I. O. headquarters.

MR. LAUTER: If the Board please, at this time I would like to point out that while this witness could observe the lights in the district office building from where he was in the car opposite C. I. O. headquarters, on this map that would be virtually impossible.

MR. DAY: We are just using this map for a rough idea to expedite matters.

MR. EDWIN S. SMITH: It seems to establish directions, namely, that he was going south on Cleveland Avenue.

Let him proceed.

BY MR. DAY:

Q. You stopped where?

A. Right here.

Q. Did you turn off your lights, or did you leave them on?

A. I turned the lights off.

Q. How long did you and Mr. Wincek and your wives sit out there debating about whether you would get a bowl

of soup before any trouble started?

A. Ten or fifteen minutes we sat there before this other car pulled up and parked.

Q. Why did you sit there that long before you went to get the bowl of soup?

A. We had no place to go outside of going home, and we were in no hurry.

Q. You drove over here to get a bowl of soup but you sat out there ten or fifteen minutes?

A. In our car.

Q. Was that other car going south also that you told us about?

A. Yes, sir.

Q. That came down and went past you?

A. Yes.

Q. Did they come to a stop also?

A. It came past me and there was a fire plug right in front of me, and it coasted down and parked just past the fire plug up close to where that light was.

Q. Did you see the man get out of that car?

A. Yes.

Q. Where did he go?

A. Towards the C. I. O. headquarters.

Q. Did he come out again?

A. I didn't pay no attention to the man after he left his car.

Q. Then the last you saw of the car it was standing there without anybody in it?

A. No, sir. I turned around and was talking to my wife and Mr. and Mrs. Wincek, I would say, for three or four minutes, and all at once I heard the motor started.

Q. I understand that. A man came down in the other car and stopped in front of you?

A. Yes.

Q. So he would be in front of you further south on Cleveland Street?

A. Yes.

Q. You say he got out of the car and went into C.I.O. headquarters?

A. I don't know whether he went in or not. He went towards C. I. O. headquarters.

Q. Was anybody else in the car?

A. Three or four men were in it. I saw them get out of the car.

Q. Did all of them get out of the car?

A. Yes.

Q. And the car was empty?

A. Yes.

Q. Did you ever see any of the men come back to the car again?

A. I didn't see the men come back, but I saw the man after he was in the car.

Q. He got back in the car?

A. Yes.

Q. How many men came back and got into the car?

A. Just one.

Q. Did he get in the front seat?

A. Yes.

Q. How much of a crowd was over around C. I. O. headquarters?

A. I judge around 200.

Q. Were they out in front and all around?

A. Out on the street and up on the sidewalk, up on the steps and standing in the doorways.

Q. About 200?

A. Yes, sir.

Q. Up to that time had you seen the policemen?

A. Yes, sir.

Q. Where were they?

A. Right down in here some place (indicating on map).

Q. About how many of them?

A. I judge from what I could see it was around fifteen.

Q. Around fifteen policemen?

A. Yes.

Q. And about 200 men around here?

A. Yes.

Q. Then the policemen would be in front of the car that was in front of you?

A. Yes, sir.

Q. What was the next thing that happened?

A. When I looked around, the motor started in that car and the man turned on his lights.

Q. He had turned the lights off before that, had he?

A. Yes. I surmised the man wanted to leave and go home.

Q. Now, I guess we have the map well enough. After he turned on his lights what happened?

A. After he turned on his lights without warning I heard two shots.

Q. Was there anything said by anybody before the two shots were fired?

A. Not that I could hear.

Q. Not a word?

A. No, sir.

Q. Then would you say it is your recollection that after the man turned on his lights there were two shots before anything was said at all by anybody? Is that right?

A. No. Before he got out of the car the cops had warned him to turn them lights out.

Q. Before he got out?

A. Yes; the first time.

Q. After the cops warned him to turn out the lights he got out of the car?

A. Yes.

Q. Did he turn his lights out then?

A. No, he did not at the time.

Q. He left them off [on]?

A. I don't think the man understood what the cops were hollering about.

Q. He left them on?

A. He stepped out on the pavement and the cops hollered a second time "Turn them lights off or we will shoot them off." The man rushed in and turned them off.

Q. The first time?

A. Yes.

Q. Then did the man go towards C. I. O. headquarters after that?

A. Yes.

Q. Then did he come back?

A. He came back some time but I did not see him come back.

Q. Did you see the man in the car?

A. Yes.

Q. With the lights on?

A. I heard the motor start and seen his lights.

Q. Then what happened?

A. At the time he turned them lights on it wasn't a half a minute or a second—I would say a second—until two shots were fired.

Q. Was there anything said by anybody before you heard those two shots fired?

A. No, sir.

Q. When the shots were fired you and your wife and the other man and his wife were in your car?

A. Yes.

Q. Did you duck down then?

A. Yes.

Q. How far did you duck down? Did you duck down far enough to get out of the range of the bullets?

A. Hardly. The other man sitting alongside of me laid over toward me, and I had to lay over the top of him.

Q. You ducked down as far as you could?

A. As far as possible, as far as I could duck down.

Q. How long did you stay ducked down?

A. Until the first volley of shots was over.

Q. Then, after the first volley of shots was over, you got up again? Is that right?

A. Yes.

Q. What happened then?

A. I started up my motor. The minute I started up my motor the second volley of shots started.

Q. And then did you duck down again?

A. And there was a tear gas bomb dropped six feet in front of my car.

Q. Did you duck again?

A. Yes. And I said, "roll up those windows".

Q. Did you stay until the second volley was over?

A. Yes.

Q. Then you ducked down while the second volley was fired?

A. Yes.

Q. Then did you duck?

A. Yes.

Q. And got up again?

A. Yes. And I told the rest of them to stay down, and I stayed.

Q. All of the time your car was standing still?

A. The third volley, I was backing my car.

Q. You were backing your car away from the curb?

A. I pulled up 8 feet because there was a car parked practically back of me, and I had to pull up in order to get out of there. I pulled up 8 feet and gave my wheels a real short turn to the left, and backed out of there, and missed that car in the back. And it hit my fender and mashed my fender in the back, the right rear fender.

Q. Then you drove away and picked up this man and took this man to the hospital?

A. I backed up an alley a half a block away and backed in that alley during the third volley of shots, and

put my car in low gear and drove away about a block and seen all of these men, and seen the two men holding this man who was wounded.

Q. You told us about that?

A. Yes.

Q. And you put him in your car?

A. Yes.

Q. And drove him to the hospital?

A. Yes.

Q. And you heard afterwards the man died?

A. Yes.

Q. You recognized Dale Kriger as one of the special policemen?

A. Yes.

Q. And there were about 15 of them?

A. Yes.

Q. And you worked for Republic when Dale Kriger worked for that company?

A. I don't know when he started. I started working for Republic sometime in the fall of 1925.

Q. How long did you keep working for them?

A. I worked there up until the strike was called.

Q. Then you joined the C. I. O. last fall?

A. Yes.

Q. And when the C. I. O. called the strike you went out?

A. When the C. I. O. called the strike it was my night off. I wasn't supposed to work that night.

Q. When did you arrive in Washington?

A. Tuesday morning.

MR. LAUTER: If the Board please, I do not think that is entirely relevant. I object to this line of inquiry being gone into as all of these other witnesses are here in Washington and we do not want to have a barrage of reporters in the locality of those witnesses, and we do not want the locality of those people

disclosed at this time.

MR. DAY: I do not want the locality.

Q. (By Mr. Day) You got here Tuesday?

A. Yes.

Q. And you have conferred with Counsel for the Labor Board, haven't you?

A. Yes.

MR. DAY: I think that is all.

Redirect Examination

BY MR. LAUTER:

Q. Did you ever see me before Monday of this week?

A. Yes, sir.

Q. I say, did you ever see me before Monday of this week, or was Monday the first time?

A. Monday was the first time.

Q. When you were over there, what was the reason you wanted the windows in the car—

A. The way that car was smoked from that gas bomb, it came up towards the car there and the odor came in our car. We either had to get out of the car and run and take a chance of getting shot down, or else suffocate in the car.

MR. LAUTER: That is all.

MR. DAY: That is all.

BY MR. DONALD WAKEFIELD SMITH:

Q. May I ask you this question: These 15 policemen, which you say were along across the street, or approximately 15—was there any crowd behind those policemen?

A. No, sir.

Q. Were there any persons over there—

A. Do you mean south of headquarters?

Q. Yes.

A. No, sir; not that I had seen.

Q. Do you know a Mr. Haley?

A. No, sir.

Q. Mr. J. Lester?
A. I do not.
MR. DONALD WAKEFIELD SMITH: That is all.
MR. LAUTER: That is all for this witness.
(Witness excused.)

HARRY JONES

was thereupon called as a witness for the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

BY MR. LAUTER:
Q. Will you please state your name?
A. Harry Jones.
Q. Mr. Jones, where do you reside?
A. East Greenville, Ohio.
Q. Are you employed at the Republic Steel Corporation plant?
A. Yes, sir.
Q. In Massillon?
A. In Massillon, Ohio.
Q. How long have you worked for Republic Steel?
A. Around 12 years.
Q. Did you work continuously for them?
A. Yes, sir; I have.
Q. What is the nature of your work?
A. Inspector.
Q. That is not a foreman's job, is it?
A. No, sir.
Q. Are you a member of the C. I. O.?
A. Yes, sir.
Q. When did you join?
A. Oh, it was last September, 1936.
Q. Are you familiar with the strike headquarters in

Cleveland Avenue, Massillon?

A. I am.

Q. Have you visited the headquarters?

A. I have.

Q. On July 11, 1937—Well, first off, Mr. Jones, do you recall that day?

A. Yes, sir.

Q. Will you describe what you did in the afternoon of that day?

MR. DAY: Is that important, what he was doing in the afternoon?

MR. EDWIN S. SMITH: I do not know.

MR. LAUTER: If the Board please, it is highly improbable that a man, or men, conducting themselves the way they were, such as Mr. Meyer and Mr. Jones on that day, would be the type of persons who would be conspiring together to get killed or do any killing on that day. I think the nature of what they were doing, since they were family men, is relevant in this proceeding. And it will not take very long to get a brief statement of what they were doing. It also clears up the type of witness we have for these things.

BY MR. LAUTER:

Q. Will you please continue with your discussion of what you were doing?

A. On Sunday afternoon, July 11th?

Q. Yes.

A. I went down to Oak Knoll Park, Massillon, to a mass meeting, a C. I. O. meeting. I suppose I was there about 2 hours. Then I went home and had supper. After supper I got the wife and two children and thought I would go for a little drive. So I had a nephew living there in North Lawrence, Ohio—that is 3 miles north of East Greenville, Ohio, and I thought I would take a ride over and see him a minute. So I drove over to North Lawrence and pulled up to his house, and there was no one there. So I

continued on my drive and went up through North Lawrence, Ohio, to the next cross-road. I turned to the right and I drove down No. 93 route, that is, leading back towards the Lincoln Highway towards home.

So I pulled down to a little town named Beach Grove. I had a friend there, so I stopped and talked to him a minute. And he asked me if I wanted some carrots, and I said yes, that is what I am after. So I went and got some carrots for the children. The children like them. I talked a minute or two and then drove up the Lincoln Highway and turned right and drove on up home.

I parked the machine and came down to the house and played with the children and talked to the wife for a while. So I went over and talked to my brother-in-law. While we were talking it started to rain, so I says to him, "What do you say we go down and get a bunch and go down and go on the picket line?" And he said, "All right".

So we sat there a while and the rain stopped, and we got into the machine and then went down to Winkow's pool room in East Greenville, Ohio, a beer parlor and candy store. So we sat there and talked for a while and talked to a few of the boys. They didn't feel like going in on a Sunday night. So then one boy came in there and we talked to him, and he would not go. So then I decided I would go down and go groundhogging. A man promised to buy me some gas if I would come down, and I could go groundhogging. So I drove down and pulled up right across the street from headquarters.

Q. Who was it you were planning on going groundhogging with?

A. I had planned on a night before earlier in the week.

Q. When were you going to go? Was it the next day?

A. The next morning.

Q. The next morning, you say?

A. Yes. So I pulled up across from headquarters and parked my machine. My brother-in-law and another young fellow were along. My brother-in-law holloaed someone said "Turn out the lights".

Q. Just a minute. When you pulled up in your car where did you stop?

A. Right across the street from headquarters.

Q. On the other side of the street?

A. Right across the street.

Q. Was that in front of the fire hydrant or back of it?

A. It was just in front of it.

Q. Go ahead.

A. My brother-in-law said, "Someone holloaed to turn the lights off". I turned off the lights. He said, "You better turn them on dim".

Q. By the way, are you little hard of hearing?

A. A little, yes.

Q. Go ahead.

A. That is the reason I didn't hear him. But my brother-in-law heard him and he told me.

Q. Why are you hard of hearing?

A. It is from the army. I am a World War veteran.

So I got out of the left side of the car and turned them on. And my brother-in-law and the other fellow got out on the right. I suppose I took two steps, far enough to open the door and shut it, and I looked down and seen the policemen. I turned around and got in the car and pulled the dim lights on. When I went to pull the dim they just flickered, and I pushed them back.

Q. When you say flickered, you mean the lights flickered?

A. They flickered, so I got out of the other side of the car. I reached in and turned the lights off, and I stood back from the car. Just as I got back from the car the shooting started.

Q. With respect to where the car was and where you were, where were the police?

A. They were right ahead, I would say 50 or 60 feet, or something like that.

Q. Did you notice the position of the police?

A. Yes, I did.

Q. What was their position?

A. It was just there they were lined and cross the street.

Q. Go ahead.

A. When they started to shooting, I jumped in a doorway. I stood there for about a second, or about a minute, I suppose, until the first volley was over. And I got down and went around the corner and faced the police. I waved my hand and I holloaed "For Christ's sake, stop shooting until I get my machine out of here".

So I ran back to the car and jumped into the car and put the keys in and turned the keys on and started the motor. And then I went to pull on the dim lights, and it flickered. As she flickered a shot hit the windshield and glass flew in my face, and I ducked. So I laid down between the seat and the gearshift and the brake for maybe a minute or so until I worked my body up onto the seat and kept my head down. I got hold of the door. I opened the door and got around on the rear bumper and stood on the rear bumper with my head awhile down like that (illustrating).

While standing on the bumper the gas shells and shots started flying and tears started rolling down my cheeks, and I started feeling a little sick in my stomach. I looked up and see some more flashes and I ducked. I got a foot braced and I made a leap.

I ran from door to door until I got up to the last building. I was kind of dry and out of wind, and the lady standing there I asked to give me drink of water, and she did. And I went up to the next street. I think they call it Fourth Street. There I met my two buddies, and I said—

Q. You mean the men in the car? They were your buddies?

A. No, they were not in the car.

Q. When you say your buddies, do you mean the men in the car with you?

A. Yes, the man in the car with me. I met them up at the corner of Fourth. So I said, "Let's get out of here". So we crossed one street and up the street they call Duncan.

Q. Let me ask you this question: At any time you were there did you see any man around C. I. O. headquarters do any shooting?

A. No, sir; I did not. I had my back to them when I was on the bumper, and when I was over there in the doorway I didn't see them.

Q. Did you see any shooting by anybody but the police?

A. I couldn't say that. I seen a few flashes once when I looked up, but I ducked quick.

Q. Then you went up the street?

A. I walked up the street quite a little bit, I would say about a quarter of a mile, and there is a sort of restaurant there, so I said, "Let's go in and call up and get a machine down here". So I suppose maybe we waited 20 minutes or a half hour, or something like that, I suppose, and two boys came down with the machine. So I said, "Let's go down to headquarters and see if I can get my automobile".

So we went down to headquarters. I did not see the Chief around there. So we talked a little and I thought I would go down and see if I could find some cops to find my car. So I drove South Erie Street down to the factory. I went to stop, and the cops holloaed "Move on". So I moved on up the street I suppose maybe fifty yards, or a hundred yards, or something like that. And I seen a cop who was a little piece off and I told him to stop, I

would like to go back up and see him, and maybe one of them would go over and get my machine for me. So I stopped and talked to him for a minute, and then while I was talking—this was a deputy—there was another deputized police came up and he got pretty huffy with me. I told him what I was after. Just then there was another one came up and handed him something black. What it was I don't know. And it was round.

Q. As to these special policemen you just testified you saw, do you know any of them?

A. One by name, Herb Hose.

Q. Do you know any others?

A. Simon.

Q. Simon?

A. Yes.

Q. Who are they?

A. One of them works over in the coal room department of the Republic.

Q. In Massillon?

A. Yes.

Q. Who was that?

A. Hose.

Q. What does Simon do?

A. He works over in the Stainless Steel Corporation in Massillon, Ohio.

Q. Go ahead.

A. They did not give me no satisfaction, so I drove down the street aways and turned around and went back up. I thought maybe I could see Chief Switter and maybe he could get my machine.

While I was standing there there was a truck pulled up and Chief Switter and a cop by the name of Johnson, a regular cop, they looked over towards me and said, "You are the fellow we want". So he came over and grabbed me and said, "Come along with me". I said "O. K." And I walked in with them.

Q. You were out there on the street outside of the police headquarters when this happened?

A. Yes.

Q. What did you see going on there?

A. There was a truck pulled up with a bunch of men in it.

Q. What kind of truck?

A. Something like an army truck.

Q. And you went inside the police station?

A. I was standing there when the truck stopped. The cop came over and said, "You are the man I want".

Q. Why didn't you protest your arrest?

A. I always figured they got the law, and maybe if I protested I might get blackjacked or something like that. So I just went along.

Q. Go ahead.

A. I went in there and they searched me and found a pocketknife on me.

Q. A pocketknife?

A. Yes.

Q. How long was the blade of that knife?

A. I judge the blade was 3 inches or a little better. I would say somewhere along there.

Q. A knife that you carried usually?

A. I carry it when I go hunting and fishing.

Q. How long did you have that knife?

A. I judge 4 years or 5 years.

Q. So far as you know nobody was stabbed the night of July 11th?

A. No, sir; not with that knife. I didn't even know I had it.

Q. What happened after you got into the police station?

A. They searched me and took the knife from me and took me over and put me in jail.

Q. What time did you get into jail?

A. I would say around 3 o'clock in the morning.

Q. That was Monday, July 12?

A. July 12; yes, sir.

Q. Did you eat that day?

A. Sir?

Q. Did you eat that day?

A. No, sir; I didn't have a bite to eat.

MR. DAY: I object to whether he ate or not.

MR. LAUTER: I would like to show the treatment those arrested on that day received.

MR. DAY: Note a special exception on that, please.

BY MR. LAUTER:

Q. Did anybody offer you any food?

A. No, sir; not then. I was in getting questioned. So I wasn't offered a bite of food then. They were taking the food in when I was going out to be questioned. I judge from the time I was in there until the following morning it was from 7 o'clock before I [got a] bite to eat.

Q. When did you get a bite to eat?

A. The following morning, Tuesday morning.

Q. Did you ever recover your car?

A. Yes, sir.

Q. Did you examine your car?

A. Yes, sir.

Q. Will you describe the condition of your car?

A. There was a bullet hole through the windshield and a lot of buckshot in the windshield, a bullet hole through the right headlight, and the radiator on the inside was all full of holes, and the outside where the buckshot hit is dinged, and the hood on the left side is all spotted from where the buckshot hit and knocked the paint off.

Q. Did you have to pay anything to get your car back?

A. Yes, $4.

Q. Why?

A. Three dollars for towing it and a dollar for storage.

Q. What was the dollar for storage for?

A. They charged 50 cents a day for keeping the car in the garage.

Q. You mean you were in jail two days and your car was out there and damaged?

A. Yes.

Q. And you were charged $4 to get it back?

A. Yes.

MR. LAUTER: That is all.

Cross Examination

BY MR. DAY:

Q. You were charged with carrying concealed weapons, weren't you?

A. Yes, sir.

Q. And you gave bond?

A. Yes, sir. I did not.

Q. Well, a bond was given for you?

A. Yes, sir.

Q. Has there been a hearing on that charge?

A. No, sir.

BY MR. DONALD WAKEFIELD SMITH:

Q. Do you know whether there will be a hearing on that charge?

A. There was supposed to be one Tuesday morning.

Q. The charge has not been dismissed?

A. No, sir.

BY MR. DAY:

Q. Did you go to the Oak Knoll meeting first?

A. Oak Knoll?

Q. You went there first?

A. Yes.

Q. Then you went to North Lawrence?

A. I went home.

Q. East Greenville?

A. Yes.

Q. Then you went on to North Lawrence?

A. I ate supper first.

Q. Then you came back and stopped in a beer parlor near East Greenville?

A. I went to Bowdi.

Q. How do you spell that?

A. B-o-w-d-i.

Q. Where did you pick up the other two boys?

A. Just a minute please. It is North Lawrence. I want to change that town there.

BY MR. EDWIN S. SMITH:

Q. It used to be Bowdi but now it is North Lawrence?

A. Yes, it is North Lawrence.

BY MR. DAY:

Q. Where did you pick up the other two men?

A. East Greenville, Ohio.

Q. Who were they?

A. Leon Graybille and another fellow.

Q. Are they C. I. O. men?

A. Yes, sir.

Q. You had some talk about going down and going on the picket line?

A. Yes.

Q. Then you had some talk about going out hunting groundhogs?

A. Yes.

Q. Where did all of this talk take place? Was it in the place where you had this beer?

A. We didn't have no beer.

Q. What did you have?

A. We didn't have nothing. We were just sitting there talking.

Q. Did you talk about hunting groundhogs in that

place?

A. About getting six men to go down on the picket line and form a full picket.

Q. When in relation to that did you talk about hunting groundhogs?

A. After we couldn't get the six men to go down on the picket line, I said, "We will go down. A man promised me to fill my tank to go groundhog hunting at any time I came down".

Q. Were you going on the picket line that night and then go out hunting groundhogs?

A. No, after we couldn't get the six men we didn't bother about it.

Q. Did you give up the idea of groundhog hunting?

A. The picket line.

Q. You were going to go hunting groundhogs?

A. Yes.

Q. When?

A. In the morning.

Q. What time?

A. I judge four or five o'clock, or something like that, according to the destination we were going to.

Q. What do you hunt groundhogs with?

A. With rifles or a shotgun.

Q. Did you have any rifle with you?

A. No.

Q. Or any shotgun with you?

A. No.

Q. Were you going to go back home and get your rifles and shotguns and then go groundhog hunting?

A. Yes.

Q. This knife they took off of you in the police station was just a pocketknife?

A. Yes.

Q. That was a knife you used when you went hunting and fishing?

A. Yes.

Q. How many blades did it have?

A. One.

Q. How long?

A. Maybe 3 inches.

Q. Has the Massilion police got that now?

A. Yes, sir.

Q. You stopped in front of the C. I. O. headquarters?

A. Yes, sir.

Q. And your car was facing south on Cleveland Street?

A. Yes, sir.

Q. And there were three of you in the car?

A. Yes, sir.

Q. How many in the front seat?

A. Two of us.

Q. You and who else?

A. Leon Graybull.

Q. And the other man in the back seat?

A. Yes.

Q. When you first stopped did you put out your lights?

A. Someone holloaed, my brother-in-law said, "Turn out the lights", and I turned them out.

Q. Then what happened?

A. He said, "You better turn them on dim".

Q. Then what did you do?

A. Turned them on dim. My buddy got out of the car on the right side. I was going to get out on the left to go to the C. I. O. headquarters and see the men.

Q. What happened then?

A. Then I seen the cops was in front of me. I turned around and got back in the car and I went out the other side. I went to pull the dims, and they flickered a second, and I pushed them back on dim. I got out of the car, and he said, "Turn them off". So I reached in and turned them off altogether.

Q. Then what happened?

A. Then the shooting started and I jumped.

Q. Where did you go when the shooting started?

A. The doorway right straight across the street from C. I. O. headquarters.

Q. And you did not see the shooting, you saw a flash or two but you did not see any shooting, did you?

A. I didn't see much of the shooting.

Q. Did you see any of the shooting at any time?

A. I seen a lot of the gas shells, the tear gas.

Q. You told all you remember about that?

A. All except the bullet that hit the windshield and I was in it.

Q. And you can understand my questions from where I stand here?

A. Yes.

Q. You can hear me all right?

A. Yes.

MR. DAY: That is all.

Redirect Examination

BY MR. LAUTER:

Q. From the time you got down to C. I. O. headquarters in your car, did you see it again until you paid the $4.00 for it?

A. No, sir.

Q. Were there any concealed weapons in that car?

A. No, sir.

Q. The police would have found them?

A. Yes, sir.

MR. LAUTER: That is all.

MR. DONALD WAKEFIELD SMITH: Did you hear any shooting whatsoever before the bullet hit the windshield?

THE WITNESS: Yes, sir.

MR. DONALD WAKEFIELD SMITH: You did hear some shooting?

THE WITNESS: Yes.

MR. DONALD WAKEFIELD SMITH: What was that?

THE WITNESS: It sounded like buckshots peppering.

MR. DONALD WAKEFIELD SMITH: That was the only thing you heard before—

THE WITNESS: That was before I jumped into the doorway.

MR. DONALD WAKEFIELD SMITH: And your car was facing south on Cleveland Street?

THE WITNESS: Yes.

MR. DONALD WAKEFIELD SMITH: And, as you have described it, is it true that most of the damage to your car was to the front of your car?

THE WITNESS: Yes.

MR. DONALD WAKEFIELD SMITH: As you jumped out of the car, I believe you testified that you climbed on the back bumper of your car?

THE WITNESS: Yes.

MR. DONALD WAKEFIELD SMITH: And then the gas shell came?

THE WITNESS: Quite a few of them.

MR. DONALD WAKEFIELD SMITH: At that time were you in a position to see any persons running away from the scene of the shooting?

THE WITNESS: I didn't pay much attention. I had my head down.

MR. DONALD WAKEFIELD SMITH: From there you jumped to doors along Cleveland Street until you got up the street?

THE WITNESS: Yes.

MR. DONALD WAKEFIELD SMITH: At that time were you in position to see any persons running

away from the scene of the shooting?

THE WITNESS: Yes; while I was running.

MR. DONALD WAKEFIELD SMITH: While you were going from one doorway to another?

THE WITNESS: Yes.

MR. DONALD WAKEFIELD SMITH: And as you stood for a time when you were running away from the shooting, did you hear any shooting at that time?

THE WITNESS: Yes.

MR. DONALD WAKEFIELD SMITH: Then you did hear shooting at a time when persons were running away from the scene of the original shooting?

THE WITNESS: Yes.

MR. DONALD WAKEFIELD SMITH: Do you know Captain Curley?

THE WITNESS: I know him when I see him.

MR. DONALD WAKEFIELD SMITH: Did you see Captain Curley there? At the time the shooting started?

THE WITNESS: I don't understand your question.

MR. DONALD WAKEFIELD SMITH: Did you see anything which, in your opinion, would provoke the shooting or did provoke the shooting?

THE WITNESS: Just how do you mean?

MR. DONALD WAKEFIELD SMITH: Was there any rioting?

THE WITNESS: I didn't notice any.

MR. DONALD WAKEFIELD SMITH: That is all.

MR. DAY: May I make a few motions to preserve the record?

MR. EDWIN S. SMITH: Yes, Mr. Day.

MR. DAY: I would like to make the same objections and the same record as to the testimony of witnesses Hardesty, Beckner, and Meyer.

And I would like to make the same motion, which I think was overruled, and the same exception in each case.

I would like to make the same request for the opportunity for further cross-examination of each and all of those witnesses.

MR. EDWIN S. SMITH: The same ruling.

We will adjourn at this time until ten o'clock in the morning.

(Thereupon, at 5:00 o'clock p. m., July 22, 1937, an adjournment was taken until Friday, July 23, 1937, at 10 o'clock a. m.)

Auditorium of the Public Health Service Building, Constitution Avenue between Nineteenth and Twentieth Streets, Washington, D. C., Friday, July 23, 1937.

The above-entitled matter came on for hearing, pursuant to adjournment, at 10 o'clock a. m.

Before:

Mr. Edwin S. Smith, Member of the Board,
Mr. Donald Wakefield Smith, Member of the Board.

Appearances:

Charles Fahy, Esq., General Counsel, Robert B. Watts, Esq., Associate General Counsel, Mark Lauter, Esq., Lawrence Hunt, Esq., Oscar Grossman, Esq., and Joseph M. Hoskins, Esq., appearing for the National Labor Relations Board.

Luther Day, Esq., and Thomas F. Veach, Esq., of the firm of Messrs. Day, Young & Veach (1420 Union Trust Building, Cleveland, Ohio), and Thomas F. Patton, Esq. (Republic Building, Cleveland, Ohio), appearing for the Respondent, the Republic Steel Corporation.

Lee Pressman, Esq. (50 Broadway, New York City), appearing for the Steel Workers Organizing Committee.

PROCEEDINGS

MR. EDWIN S. SMITH: You may proceed, gentlemen.

MR. LAUTER: I would like to call Mr. John Veto.

JOHN VETO

was thereupon called as a witness for the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

BY MR. LAUTER:

Q. Will you please state your full name?

A. John Veto.

Q. Where do you reside?

A. 725 Bernard Street.

Q. In Massilion, Ohio?

A. Yes, sir.

Q. How old are you?

A. Twenty-two.

Q. Are you single?

A. Yes, sir.

Q. You have been employed by the Republic Steel Corporation?

A. Yes, sir.

Q. In what capacity?

A. As third ladle man.

Q. In the open hearth?

A. Yes, sir.

Q. Have you any other business?

A. Yes, sir. I have a coal business.

Q. You have a coal business, you say?

A. Yes, sir.

Q. Do you deliver coal yourself?

A. I have two men working for me. Sometimes I have one and sometimes I have two men working for me.

Q. How do they deliver the coal?

A. They deliver by truck. And I buy these carloads.

Q. You buy by carloads?

A. Yes, sir.

Q. And they deliver by truck?

A. Yes, sir.

Q. Who owns the truck?

A. I do.

Q. That is in addition to the work you have been doing at Republic Steel Corporation?

A. Yes, sir.

Q. Are you a member of the C. I. O.?

A. Yes, sir.

Q. When did you join?

A. Last January.

Q. January of 1937?

A. Yes, sir.

Q. To what lodge do you belong?

A. Massillon Lodge No. 1124.

Q. Do you remember July 11, 1937?

A. Yes, sir.

Q. What were you doing in the afternoon of July 11, 1937?

A. Well, at 3 o'clock I left home. When I left home I went up Walnut.

Q. You went up Walnut Street?

A. Yes; I went up Walnut Street and I reached Eleventh Street, and I went to get some orders for coal, and as I reached Eleventh and Walnut I saw about twelve people over there, and I got a few.

Q. You got a few orders?

A. Yes.

Q. Then what?

A. It was around 4:30 when I quit and went home, and back up a short way.

Q. You what?

A. I cut through a short way.

Q. You took a short way home?

A. Yes. I went through Eleventh and reached the Massillon football field. Around there there is a place where there is a viaduct. And when I reached there I try to go through there.

MR. DAY: May we have the same record on this witness?

MR. EDWIN S. SMITH: Yes; the same record.

THE WITNESS: And there were the special policemen. And he told me I couldn't get through. And I said why.

BY MR. LAUTER:

Q. Couldn't get through where?

A. Through the viaduct. I told him why? He said, "Well, somebody threw nails on the floor here, and somebody got a nail in his tire last night." I told him I didn't have any nails to throw. I convinced him and he let me go through. I told him I didn't have any nails to throw on the road and he let me go through. And when I reached the corner of Cleveland Avenue and Oberlin Road I believe a guy asked me what time it was, and I had the same watch and I took it out, and it was 2 minutes before 5 o'clock.

Q. You were at Cleveland and Oberlin?

A. Yes, sir.

Q. Is the mill near there?

A. Yes, the mill is right there.

Q. Right there, you say?

A. Yes, sir; it is.

Q. That is where one of the entrances to the mill is?

A. Yes, the main gate.

Q. Where is the C. I. O. headquarters?

A On Cleveland Avenue north.

Q. North of where you just described you were?

A. Yes.

Q. Go ahead.

A. I was going north.

Q. You were going north on what?

A. On Cleveland Avenue. When I reached 200 feet from C. I. O. headquarters there were two special police over there, one sitting on a folding chair and the other one sitting on a straight chair there.

Q. One was on a straight chair?

A. Yes.

Q. And one was on a folding chair?

A. Yes. They were talking. I was between 2½ and 3 feet away from them.

Q. What direction were these men, sitting in the chairs, facing?

A. North, toward C. I. O. headquarters. So I came back.

Q. Were their backs to the mill?

A. Yes.

Q. Well, go ahead.

A. I heard one of them say, "We are going to clean them up tonight."

Q. "We are going to clean them up tonight"?

A. Yes, sir.

Q. Do you know who said that?

A. Yes.

Q. How do you know?

A. Because he turned around and I recognized him as Bill Henderson, a chipper foreman in the mill.

Q. What did you do after that?

A. Then he turned around and he was kind of surprised, and he told me "Where is the chipper job?" I told

him I didn't have any job that day; I wasn't on duty. And he said all right. And I went straight home.

Q. When you say "All right," and that you went straight home, where did you go?

A. Past C. I. O. headquarters to McKinley Avenue, Duncan Street—

Q. You went to Duncan Street?

A. Up Cleveland, and I reached McKinley, and from McKinley I turned and went straight out Duncan Street, and I reached Beb Street, and I reached Overlook Avenue, and I went home.

Q. This all took place in the neighborhood of 5 o'clock?

A. Yes.

Q. What did you do after that?

A. Then I had dinner with my family.

Q. With whom do you live?

A. My father and mother, and I have a little brother.

Q. What happened after that?

A. I ate dinner and I read the newspaper and I pitched a horseshoe game with my neighbor.

Q. You pitched a horseshoe game with your neighbor?

A. Yes.

Q. What did you do after that?

A. The neighbor there, or the neighbor's wife, she came out to the door and said, "It is 6 o'clock. It is time to quit." And the neighbor, he went in.

Q. The neighbor, with whom you were pitching horseshoes, went in?

A. Yes, sir. And then I quit. And I washed my hands and I went out to C. I. O. headquarters.

Q. You went out to C. I. O. headquarters?

A. Yes.

Q. About what time was that?

A. Eight o'clock.

Q. It was about 8 o'clock?

A. Yes; when I went from my house. When I reached the corner of Cleveland Avenue and McKinley Avenue I found a friend of mine.

Q. How far in Cleveland and McKinley Avenue from C. I. O. headquarters?

A. It is about a block.

Q. Is it about a block away?

A. Yes, sir.

Q. Then what?

A. I told him, "Where you been?" He said, "Well, I don't have to go. They have a lot of fun over there. They play music." I said, "Yes?" And then I said, "Are you going home?" and he said, "Yes." And I went up to C. I. O. headquarters.

Q. You say you went up to C. I. O. headquarters?

A. Yes.

Q. Then what?

A. When I reached there they were playing music right there on the sidewalk.

Q. Why did you go to C. I. O. headquarters that night?

A. I went there every night at 8 o'clock.

Q. It was the custom for you to go?

A. Yes. In the afternoon I got around the house to attend to my business, and at 8 o'clock I go down to C. I. O. headquarters and stay there generally until about 11 o'clock.

Q. You generally stay there until about 11 o'clock?

A. Yes, sir.

Q. Until about 11 o'clock?

A. Yes, sir. When I reached there they were playing music and the people were dancing on the streets, and I danced, too. And we had a lot of fun.

Then the rain came and a lot of people went into the kitchen, and a lot of others were on the other side of the

hall where we have the office. We have three doors over there.

Q. Are you familiar with that building?

A. Yes, sir.

Q. Please describe your building. What kind of a building is it?

A. It is kind of a rectangular affair.

Q. Is it a brick building?

A. No, sir; it is not.

Q. Is it a wooden building?

A. Yes; with three doors on the one side and a big window on the south side, and two on the north side.

Q. Are those windows separated, or are they close together?

A. The north window, there are two windows together, and on the south side it is one.

Q. How many rooms are there on the bottom floor of the building?

A. On the bottom floor of this building on this side of the office—

Q. When you say "this side," do you mean the north side or do you mean the south side nearest the mill?

A. The south side nearest the mill. The office and the back room there, and another back room.

Q. On the side away from the mill?

A. On the north side there is a big hall there; and then there is a little room between and the kitchen.

Q. Go ahead with your story. You were having a lot of fun?

A. Yes.

Q. Then what?

A. Then the rain came.

Q. Then what?

A. Some people went on the north side of the hall inside and a few people went on the south side of the hall.

Q. You mean into the room on the south side of the hall?

A. Yes. Then the rain came and the music was playing in there.

Q. In where?

A. In the hall.

Q. Where?

A. Down on the north side.

Q. Then what?

A. We were talking together and having a lot of fun. Then the rain stopped and all of the people went out again, and the music went out again and the people went on the street just the same as they did before. I sat right there, or I stood right there on the platform. Here is the doorway (indicating), and I had one foot on the doorway and one on that step, on the first step.

Q. One on the doorway and one on the step below?

A. Yes.

Q. Then what?

A. There was a guy, and I think he is around here. And on the bottom step was a guy named Ruttenberg. On the floor there we had a large tile work and concrete work. And I believe Frank Hardesty was there. He was right on the sidewalk.

I kept waiting around there and hearing the music. When I turned around on the south side there were 12 police over there. They was talking together. Pretty soon another car came and let three more out. As soon as the three more came they all went together and talked together. I don't know what they were talking about. Then another car came and let three more down.

Q. Three more what?

A. Three more special policemen. The fourth car came down there and it was a Massillon police car. The second car was the private car that carried the special police.

Q. Then what?

A. Well, I stood there, you see, and there were two police on the corner of Cleveland and Oberlin Avenue—that is, near the plant, and they were coming up toward the north where the other police were. They began to spread from this point here (indicating) across the street to the other yard.

Q. When you say the other yard, you mean the plot of ground on the other side of the street?

A. Yes.

Q. And they lined up? Is that what you mean?

A. Yes; they lined up. And then a car came up there with their lights on.

Q. A car came up with a light on?

A. Yes; from the north coming south, and they had the lights toward the police there. While the light was flashing I saw a machine on the other side of the road, on the police side.

Q. You mean on the side of the road nearest there from C. I. O. headquarters?

A. Yes, where the police lined up.

Q. There on the other side?

A. Yes.

Q. Then what?

A. Two cops stood up and they went forward, and I heard them say, "Shut them lights off."

Q. You say two cops went forward?

A. Yes.

Q. From where?

A. From their line.

Q. From their line of police?

A. Yes. They said "Shut them lights off there." Well, the car shut them lights off. But before those two cops came up I want to tell you another thing. There came a cop named Fellabom, and he came up from the police line and went to a meat market. There was a meat

the east end of the city where we met the police cruiser, and Mr. McCarroll and I rode in the police cruiser to the Republic Steel Corporation plant at Eighth Street, Northeast. There we reported to the office of Mr. Gubbins.

Q. Do you know his full name?

A. I am sorry, I do not recall his initials. They are on some of my data. His title is assistant treasurer, I believe, of the Steel Corporation.

Q. Assistant Treasurer of the Republic Steel Corporation?

A. Yes, Assistant Treasurer of the Republic Steel Corporation. He is also an officer of the subsidiary there, the Burger Manufacturing Company.

We entered Mr. Gubbins' office. There there was Attorney David Day, and there were Mr. Gubbins and several other persons whose names I do not now recall.

Q. Mr. Cope is associated with the law firm of which Mr. David Day is one of the senior partners? Is that correct?

A. Yes.

Q. Both Mr. Cope and Mr. Day were out at the Republic Steel Corporation plant?

A. No, sir; Mr. Cope was not at the plant. Mr. day was there.

Q. Mr. Cope arranged for it?

A. That is right.

Q. What happened when you got there?

A. We greeted the gentlemen and then we proceeded into another room where there were several clerks.

Q. You say you greeted these gentlemen?

A. Yes.

Q. Who else was there?

A. So far as names I can recall in this room there were only Mr. Day and Mr. Gubbins. Then there was one there who served as chief clerk, Mr. Speis.

Q. Chief clerk of the Republic Steel Corporation?

A. I cannot say that is his title, but he seemed to be acting in that capacity and he helped me with the work which I did.

They had on hand the bond forms of the City of Canton, a considerable stack of them. And the bond forms all the names of these applications for special police appointments typed on them. My work was then in executing these bonds. I would sign those bonds for them and put the seal of the bonding company on it. Then I had to get from each individual a signed application.

These several clerks around assisted me in doing that, and they really got the signatures on these forms for me and filled in such data as I considered essential. Then, the applications were signed by the person who was being appointed a special policeman.

Q. Were the persons being appointed as special policemen there at the plant?

A. Yes, sir.

Q. Where were they?

A. I could not say where all of them were. These signatures were procured for me on my application and on the bonds by the different clerks around there.

Q. They were outside in the outer office and around there?

A. I judge so. I didn't see them. I saw a few but not all of the persons who signed.

Q. I mean a few of them.

A. Yes.

Q. And their names were on these applications?

A. That is right.

Q. They had been typed in before you got there?

A. Not on the applications but on the bond forms.

Q. On the bond forms?

A. Yes. I took my supply of applications out to the office. The Steel Company did not have those. Then, when these applications were signed I put the bonding company

name and the bonding company seal on the bond. And Mr. McCarroll told me he was going out to swear in these persons.

Q. What was Mr. McCarroll's position?

A. Police prosecutor or assistant city solicitor.

Q. Of the City of Canton?

A. Yes, of the City of Canton.

Q. What else happened out there at the Republic plant?

A. Mr. Gubbins came in from time to time and looked at these applications and bond forms and discussed with Mr. Speis and with certain gentlemen there, whose names I do not recall, but who were evidently foremen or superintendents, or some such position, the characteristics of these persons. And I recall a number of them where the names had already been typed in on the bonds, and Mr. Gubbins said, after he discussed the characteristics with the men, "You'd better throw that one out. He is hot-headed." I remember he spoke in reference to one of them like that. "We don't want him in this bunch of men because we only want level-headed persons. They are going to be responsible for lives and property and we don't want lives and property destroyed."

Q. This was on July 5th?

A. This was on July 5th.

Q. What happened?

A. When we completed that job, which I guess was about 4 o'clock, we called the police cruiser and left the plant. Mr. Gubbins signed each one of these applications on the back. I was supposed to have an indemnifying agreement form, but I could not find it in my office, it being closed, and the girls were not there. So I asked Mr. Gubbins to sign each one of these individual applications as a makeshift for the indemnity agreement, for the agreement form I did not have at that time. I arranged with Mr. Gubbins

that I would present the appropriate form of indemnifying agreement later for his signature.

Q. That is, the Republic plant was going to indemnify for any loss occasioned by the actions of any of these deputy policemen?

A. Yes. In brief, the Steel Corporation would indemnify the Fidelity and Casualty Company for any loss which they might sustain on account of having acted as surety on these bonds.

BY MR. DONALD WAKEFIELD SMITH:

Q. Did they so sign such an indemnity agreement?

A. Yes. It was later signed when I had the appropriate form and handed it to them.

Q. To your knowledge, was that signed by the Republic Steel Corporation, by officers of the Republic Steel Corporation?

A. It was signed by Mr. Gubbins as assistant treasurer of the Republic Steel Corporation.

MR. LAUTER: If the Board please, I intend to go into that in a few minutes.

May I ask the Reporter to mark this document for identification?

(The document referred to was thereupon marked for identification "Board's Exhibit No. 9".)

MR. LAUTER: And will you mark this one as No. 10?

(The document referred to was thereupon marked for identification "Board's Exhibit No. 10.")

MR. LAUTER: And will you please mark this one as Board's Exhibit No. 11, for identification?

(The document referred to was thereupon marked for identification "Board's Exhibit No. 11.")

BY MR. LAUTER:

Q. Mr. Smith, I hand you Board's Exhibit No. 9, for identification, and I will ask you whether or not you have ever seen a form like that before?

A. This is the application for public official bond of 5,000 or less. It is furnished in our supplies as agents of The Fidelity & Casualty Company of New York. It is known as the short form. I used this in bonding all of these individuals.

Q. When you say "all of these individuals," Mr. Smith, you mean at the Canton plant?

A. Yes, I mean at the Canton plant—with a few exceptions, where my supply ran out and I had some forms essentially the same but having a double sheet instead of a single sheet, and more data on it; that is, there were more questions on it, but the sense of it was the same.

MR. LAUTER: If the Board please, I offer this in evidence as Board's Exhibit No. 9, without the pencil notations that appear on the exhibit.

MR. DAY: The same objections generally to it.

MR. EDWIN S. SMITH: It may be admitted.

(The document previously marked for identification as "Board's Exhibit No. 9," was received in evidence.)

BY MR. LAUTER:

Q. Mr. Smith, will you please state for the record what items on this form, Board's Exhibit No. 9, you filled out when you were at the Republic Steel Corporation's plant in Canton, Ohio, on July 5th?

A. About each individual who was to be bonded as a special policeman I was careful to have the correct name of the applicant, his age, and his address. Of course, all of the other information about the amount of bond required, and the date, would be the same in every case.

MR. EDWIN S. SMITH: May we see this?

BY MR. LAUTER:

Q. Yes. Besides the notations which you made on the front side of Board's Exhibit No. 9, Mr. Smith, was there any notation of any kind made by anyone on the reverse

side of this exhibit, or on sheets similar to this exhibit?

A. As I mentioned before, these signatures were witnessed, I think, either by myself or Mr. Speis, whom I mentioned previously. And then Mr. Gubbins signed underneath—Republic Steel Corporation, by.

Q. He put down "Republic Steel Corporation, by"?

A. Whatever his initials are.

Q. By Mr. Gubbins?

A. Yes.

Q. Assistant treasurer?

A. Yes.

Q. What was the reason he put that down on these application forms?

A. I was substituting that for the indemnity bond which I did not have.

Q. That was your assurance that Republic Steel Corporation would indemnify The Fidelity & Casualty Company ?

A. That is correct.

Q. And you did not have the indemnity agreement at that time?

A. That is correct.

Q. Mr. Smith, I hand you Board's Exhibit No. 10, for identification, and I will ask you if you have ever seen a copy of that before?

A. This is the printed bond form used by the City of Canton, and it was used in the situation I just spoke about in bonding these special police.

Q. Was that used at the Republic Steel Corporation plant that day?

A. Yes, it was. It was the usual form; "the principal and the surety are firmly bound to the City of Canton," and so on, and the sum in this case, as it was filled in is $500.

Q. What was the part filled in?

A. "The City of Canton binds that 'we will and truly

bind ourselves.' '' It is the usual form. This is only a faithful performance of duty bond. It goes on to say about the faithful performance of duties, and so on, and that this obligation shall be voided. That is the usual wording there for a bond of this nature.

Q. Were all of the bonds that were made out in Canton July 5th for $500?

A. Yes, sir.

MR. LAUTER: If the Board pleases, since the stenographer took the notes at the time this was offered, it was offered for identification, has left the room, I should like the record to show that Board's Exhibit No. 10, for identification, is being offered at this time and consists of two documents, one a long printed sheet, and the other a small card with the words ''Private Police Commission'' on top of it.

MR. DAY: The same record on it, please.

MR. EDWIN S. SMITH: It may be admitted.

(The document heretofore marked for identification ''Board's Exhibit 10,'' was received in evidence.)

BY MR. LAUTER:

Q. What was your understanding as to the amount which your firm was to receive for each of the bonds that was made out?

A. Ten dollars.

Q. For each $500 bond?

A. Right.

Q. (Indicating) Now, I show you the Board's Exhibit No. 10, and make reference to the small yellow card, the words ''Private Police Commission.'' Can you explain what that is?

A. This is the card that was discussed by Mr. McCarroll, the police prosecutor of the City of Canton. He said to Mr. Gubbins, ''I don't have the cards which are to be furnished to each of these individual policemen who are being bonded.'' He said, ''They are in the Mayor's office

and they will be made up from the bonds when the bonds are filed and can be picked up there by someone from your office."

And this card, as I understand it, is one which was given to what is called the private police. "This is to certify that the Mayor of the City of Canton appoints so and so private police officer under ordinance number so and so." He gives the name and number of the ordinance. "This private officer to be under the direction and control of the Chief of Police of the City of Canton."

Q. Have you made out bonds for private policemen before for various industrial concerns in Canton?

A. Yes, it is quite a common occurrence.

Q. Who generally pays for such policemen, do you know?

A The employer.

Q. The employer?

A. Yes.

MR. DONALD WAKEFIELD SMITH: May I see that, Mr. Lauter, please?

(Mr. Lauter hands exhibit to Mr. Donald Wakefield Smith.)

BY MR. LAUTER:

Q. Describe what else took place at that conference on July 5th?

A. Let us see—unless my memory be refreshed, I don't recall any other thing.

Q. You filled out these bonds, and you went home?

A. Yes.

Q. That was July 5th?

A. Yes, that is the way I completed it, I think.

Q. (Indicating) I hand you Board's Exhibit No. 11, for identification, and ask you to describe for the record what that is?

A. This is a carbon copy.

Q. An original carbon copy?

A. Yes. This was made at the same time that the invoice was made to the Republic Steel Corporation for these bonds, which I executed on July 5th for special policemen, and it shows bonds executed for 56 employees at Canton, and 27 employees in Massillon, Ohio, and this is dated July 6th, and it was made in our office at that time, and on the back of this we have attached a list of the names arranged alphabetically, and the report numbers which we gave these bonds, so as to identify them on the records—on our records and on the company records.

This list, Canton, begins with Bauman and ends with Zorn.

Q. The column on the first side, deals with Canton; is that right?

A. Yes.

Q. And this is the list which you sent in to The Fidelity & Casualty Company of New York; is that correct?

A. Yes, through their Cleveland office.

Q. Through their Cleveland office?

A. Yes.

MR. LAUTER: I offer this in evidence as Board's Exhibit No. 11.

MR. DAY: May I have the same record, please?

MR. EDWIN S. SMTIH: It is admitted.

(The document heretofore marked for identification "Board's Exhibit No. 11", was received in evidence.)

BY MR. LAUTER:

Q. Now, that was July 5th that you discussed this; is that right?

A. Yes, that is right.

Q. This was made out on July 6th (referring to Board's Exhibit No. 11)?

A. Correct.

Q. And Board's Exhibit No. 11 refers not only to

Canton police, but also to Massillon police; is that correct?

A. That is true.

Q. Your invoice covers both types of special police?

A. We billed them all at once, yes.

Q. When did you issue bonds on the Massillon police?

A. On the day following, the 6th of July.

Q. How did you happen to issue bonds to the Massillon police?

A. Along in the afternoon—between 3 and 4 o'clock—I had been out of my office and came in, and the telephone operator there told me that I should call Attorney David Day.

Q. Now, you are referring to July 6th?

A. July 6th. This is my own office down in the Millet Building in Canton.

Q. Yes.

A. I got Mr. Day on the wire and he asked me if I could go to Massillon to sign some more special police bonds, and I told him I could, and so he said, "Well, Mr. Gubbins and I are driving over, and we will call for you very soon". Mr. Gubbins arrived at my office, and shortly his car came by with another gentleman driving—Mr. Robinson was his name—and we got into the car there in front of my office.

Q. In Canton?

A. In Canton. And they drove down to the next intersection, Tuscarawas Street, and Mr. Day came along and got in with us and we went to Massillon, to the City Hall there, and went into the police station, and Mr. Day inquired at the desk—the desk sergeant, for Captain Curley, and a gentleman came forward and introduced himself as Curley. I don't remember whether he used the title, and then he took us along the hall toward the rear of the building to the office of the Chief of Police whose name, I believe, was Switter, and introduced us there.

The Chief greeted us rather curtly, I thought—didn't spend much time in welcoming us, and he told us that we didn't—oh, I didn't state that as we went in there, there were a crowd of men, several men in the hall, rather wide hall.

Q. That is the hall downstairs in the police station?

A. Yes, downstairs in the police station.

So, the Chief said to us, "You don't need to use my office for this matter." When Captain Curley had mentioned to him what we came for, to bond the special policemen. So he said, "You may go down and use the room further down the hall where there are tables to write on." So, we followed Captain Curley down there, went into this room, and there we found the City Solicitor, Mr. Hardman, and, as I recall it, Mr. Hardman had the bonds, which in this case, as I recall, were mimeographed, or multigraphed, instead of being printed, and they were made out for a thousand dollars each. There were 27, I think, men gathered there, who were to be bonded as special policemen, and we proceeded to prepare the applications.

I didn't have the clerical help that I had out at the Republic. As I recall the procedure, Mr. Hardman, or someone would pass out these bond forms upon which the name had already been typed of the applicant to be appointed as a policeman, and then I took the position at a table about here (indicating), and Mr. Gubbins sat across the table—

Q. This is Mr. Gubbins, of the Republic Steel Corporation?

A. Yes, of the Republic Steel Corporation, sat across the table, and then there was another chair there. As these applicants to be appointed as police would come down the line, each holding in his hand his bond, I would take the bond and ask him the essential questions on the application, and have him sign the bond, and sign my application, and then Mr. Gubbins had been handed a list, I believe, by Cap-

tain Curley, or someone, he was sitting over there—

Q. Let us get that straight: What did you say just then?

A. Mr. Gubbins had been handed a list of these persons who were to be bonded as special police.

MR. EDWIN S. SMITH: Just a moment, if I may interrupt.

You say you asked these men as they came along the essential questions. Just what questions did you ask them?

THE WITNESS: I discussed that a while ago in connection with the application that was filled out at the Canton office.

BY MR. LAUTER:

Q. You are referring to the essential questions on Board's Exhibit No. 9?

A. Yes—that would be name and address of applicant, and age, and because the other questions were the same in all cases—

MR. DONALD WAKEFIELD SMITH: May I see that paper?

MR. LAUTER: Certainly (handing paper to Mr. Donald Wakefield Smith).

MR. DONALD WAKEFIELD SMITH: Before you ask a question, Mr. Lauter,—I notice on the back of Board's Exhibit No. 9 this question: "Shall you be engaged in any other business or employment during your term of office?"

Did you ask them those questions?

THE WITNESS: No.

MR. DONALD WAKEFIELD SMITH: It also says, "If so, state the business and employment and your probable income therefrom."

Did you ask that question?

THE WITNESS: No.

MR. DONALD WAKEFIELD SMITH: Was it

pertinent to you whether or not these special policemen were employed by the Republic Steel Corporation?

THE WITNESS: No.

(Thereupon, a paper was marked for identification as "Board's Exhibit No. 12.")

BY MR. LAUTER:

Q. I hand you Board's Exhibit No. 12, for identification, and ask you whether or not this is the mimeographed form to which you referred before as having been used at Massillon?

A. That looks to me to be the same form. I notice it is made out in the amount of a thousand dollars, which is the amount of the bond we signed at Massillon.

Q. How much were you to receive for each one of the bonds at Massillon?

A. Ten dollars for each bond.

We proceeded to execute them—

Q. Please talk a little louder.

A. I said, we proceeded, as I have just described—we proceeded to execute those bonds in the same way as we did the day preceding in Canton, with the exception that in these cases Mr. Gubbins, as I say, sat across the table, and he would inquire of each applicant as he came along, "Do you work for the Republic Steel?" and if the man answered yes, the applicant answered yes, then he would inquire, "What is your badge number?"

Q. This is Mr. Gubbins?

A. Yes.

Q. Of the Republic Steel Corporation?

A. Yes.

Q. Sitting at the table in the Massillon Police Station would be inquiring from these men whether they were Republic Steel Corporation employees?

A. Yes.

Q. And their badge number?

A. Yes.

MR. EDWIN S. SMITH: May I ask a question here? Was there a discussion at Massillon, except as you said took place at Canton, as to the qualification of these men?

THE WITNESS: Not in my hearing. As I said, I did not have the clerical assistance over there as I did in the other place, and I was quite busy with these signatures, and there might have been such a discussion between Captain Curley and Mr. Gubbins, and some of the others, that I did not overhear.

MR. EDWIN S. SMITH: You heard nothing of that sort?

THE WITNESS: I heard nothing. I remember later that Mr. Gubbins said to me, as we came out after finishing this transaction, and he said, "Did you ever see a finer looking bunch of men?" and I had to agree with him, because they were a very, very—well, they were big fellows, and clear-eyed, and real honest-to-goodness men they looked to me; I would have liked to have had them in the army.

BY MR. LAUTER:

Q. You would have liked to have had them in the army?

A. Yes.

Q. You do not know whether Captain Curley is a retired captain in the army, do you?

A. Well, not—well, I have heard it said, yes, that he is a retired captain.

MR. LAUTER: If the Board please, I am not sure that the record shows that I actually made an offer of Board's Exhibit 12, for identification. I would like to do so at this time, and, if there is no objection to the admission of it, have a ruling on it.

MR. DAY: I would like to have the same record on it.

MR. EDWIN S. SMITH: It is admitted.

(The document heretofore marked for identification as "Board's Exhibit No. 12," was received in evidence.)

MR. LAUTER: And that goes for the exhibits which have been introduced today.

MR. EDWIN S. SMITH: Yes.

BY MR. LAUTER:

Q. I hand you Board's Exhibit No. 13, for identification, and ask you to identify that document.

MR. LAUTER: And for the record, I wish to state that that consists of a white sheet with names typewritten on it, and attached to it a yellow card.

A. In making the record of the different bonds and policies which we issued, we kept a card file.

BY MR. LAUTER:

Q. Is that the form in which you kept the card file, folded up that way?

A. Yes, we kept it in a file that will accommodate a card of this size, and, of course, in the same cabinet where it cannot be destroyed. It is our—

Q. What is the reason for keeping them in that particular form?

A. Well, we find it a convenient form, and we, a great many times, have to refer to these different records, and then, another thing is that these policies expire after some term. In this case, the premium charge would pay for one year.

Q. The premium for the policies that you issued at Canton, and Massillon, would be good for a year; is that right?

A. Yes. Of course, that $10 is for each bond, is the minimum premium, and we cannot charge less, and it would pay the premium upon a bond of this size which we issued for one year.

MR. EDWIN S. SMITH: Why was the minimum

premium used in this case? Why was that figure adopted by you?

THE WITNESS: Well, it is in the book. We use a bond manual for reference, and those rates are made by Casualty and Surety Bureau, and each agent is furnished with a printed list of classifications and rates, and we use them.

MR. EDWIN S. SMITH: Do you have a special rate for bonding policemen?

THE WITNESS: Yes, there is a page in the manual.

MR. EDWIN S. SMITH: And this premium to which you refer falls within the classification, within the range for bonding policemen; is that correct?

THE WITNESS: Exactly. These are police bonds, the same form as if a man were on a force.

MR. EDWIN S. SMITH: Is the application which was introduced here the application for a bond, the same as is used for police bonds, regularly?

THE WITNESS: Precisely.

MR. LAUTER: I offer in evidence as Board's Exhibit No. 13 the two documents previously referred to as Board's Exhibit No. 13, for identification.

MR. DAY: The same record, please.

MR. EDWIN S. SMITH: It is admitted.

(The documents referred to were marked "Board's Exhibits 13-A and 13-B," and received in evidence.)

MR. EDWIN S. SMITH: Could I see that exhibit, please?

MR. LAUTER: Yes (handing paper to Mr. Edwin S. Smith).

(A paper was thereupon marked for identification as "Board's Exhibits 14-A and 14-B.")

BY MR. LAUTER:

Q. I hand you Board's Exhibits Nos. 14-A and 14-B, for identification, and ask you whether or not you have ever seen them before?

A. Yes, this is a copy of my letter in which I transmitted a form such as this, which is a form—

Q. You say "such as this." You mean Board's Exhibit 14-B, for identification?

A. Yes, known as the General Indemnity Agreement —among our supplies sent from The Fidelity & Casualty Company of New York, which is a copy we used in writing the police bonds which have been under discussion. As I said before, I didn't have this form at hand when I signed the special police bonds, so I asked the Cleveland office to furnish me with these forms, talked with them over long-distance telephone, and they did, in the course of time. I took this—a form similar to this—

Q. Similar to Board's Exhibit 14-B?

A. Yes—to Mr. Gubbin's office, out at the Republic Steel Corporation, and he signed "Republic Steel Corporation," by whatever his initials are, Gubbins, Assistant Treasurer.

MR. LAUTER: Before you go into a further description of what goes into this document, I want to be sure that I get it admitted in evidence as Board's Exhibits Nos. 14-A and 14-B.

MR. DAY: May I have the same record?

MR. EDWIN S. SMITH: It is admitted.

(The documents heretofore marked for identification "Board's Exhibits 14-A and 14-B," were received in evidence.)

BY MR. LAUTER:

Q. Now, you stated, or started to state something about that contract of indemnity being signed, referring now to Board's Exhibit 14-B.

A. A carbon copy of my letter transmitting it to the Cleveland office is dated July 13, and that was the same day that I went to Mr. Gubbins' office at the Republic Steel Corporation in Canton, and got him to sign it, as over the line full name of indemnitor.

Q. Are there any other lines on Board's Exhibit 14-A?

A. Yes; there is a line for the signature of a principal.

Q. And was that line filled out?

A. That line was not filled out. We indicated on the first page of this form, Board's Exhibit 14—

Q. 14-A you are referring to?

A. —that there were various principals.

Q. Do you remember the language which you used in filling out that form?

A. I am sorry, but I don't think I can quote it exactly.

Q. I mean the substance of it.

A. Various principals for whom bonds were executed on July 5th and 6th, and then we proceeded to get the signatures and have the corporate verification.

Q. The corporate verification is on the last page?

A. On the last page. That was filled in by a notary in Mr. Gubbins' office who was Miss Meyers, and she put her notarial seal on there. It was forwarded on the same day to the Cleveland office of the Fidelity & Casualty Company of New York.

Q. On page 2 of Board's Exhibit 14-A there is a space for the full name of the principal. Can you recall what was put in there in substance?

A. It was left blank.

Q. It was left blank?

A. Yes, sir.

Q. And the only reference in the indemnity to the employees who were employed at the Republic plant for whom you had issued bonds was covered by the statement on the first page?

A. That is right.

Q. This contract of indemnity obligates the Republic Steel Corporation to pay? Is that correct?

A. Yes. It is known as an indemnifying agreement.

MR. DAY: It shows what it is. You have offered it in evidence, have you not?

MR. LAUTER: I just thought we would have some description of it. It is not being read at this time. It is in the record and does speak for itself, and if there is any objection on that question, I will withdraw the question.

MR. DAY: We are not strenuous about it; but it is an ordinary indemnity bond.

BY MR. LAUTER:

Q. I show you Board's Exhibit No. 11 and I will ask you when that was sent to the Republic Company.

A. To the best of my knowledge, the date it was mailed, on July 6th. I couldn't say definitely it was mailed at that time, but it was mailed some time in the neighborhood of that date. There might have been a slip of a day in getting those things off.

Q. I call your attention to the statement contained on Board's Exhibit No. 11, "Special Police Bonds—

56 employees at Canton—$10. ea. $500. 1yr $560.00

27 employees at Massillon— 10. ea. 1000. 1yr 270.00"

Making a total of $830.00.

Is that the sum which you had billed the Republic Steel Corporation for these?

A. That is right. That was a carbon copy made at the same time as the original invoice. The original invoice was torn off at the perforation.

Q. There was a perforated sheet attached to Board's Exhibit No. 11, was there?

A. Yes, sir.

Q. And it was sent to the Republic Steel Corporation?

A. Yes, sir.

Q. Have you been paid for these special deputy bonds?

A. The last time I noticed the account it was not paid. It had not had time, I suppose, to go through all of the necessary channels.

Q. You have never had any difficulty in getting paid from Republic before, have you?

A. Never.

Q. You do not anticipate any now?

A. No, sir.

MR. LAUTER: That is all.

Cross Examination

BY MR. DAY:

Q. Mr. Smith, these officers were special policemen of the City of Canton and of the City of Massillon? Is that right?

A. Yes, sir. They were qualified as special policemen in those cities.

Q. Were they appointed by the mayors of those cities?

A. Yes, sir; they were appointed by the mayors.

Q. And the City Law Officer of Canton was present when the Caanton transaction was discussed, and the City Law Officer of Massillon when the Massillon transaction was discussed, is that right?

A. When we completed the transaction.

Q. Mr. McCarroll was there for Canton, and Mr. Hardman was there for Massillon?

A. Yes.

Q. And the bonds were $500 in connection with the Canton officers, and $1,000 in connection with the Massillon officers?

A. That is right.

Q. And the bonds were conditioned upon the faithful performance of the duties of the office by the special officers, is that right?

A. Yes, sir.

Q. And your surety company signed up the bonds?

A. Yes.

Q. And Republic signed up the indemnity bond running to your surety company?

A. Yes, sir.

Q. And I understood you to say that was not an unusual thing, is that right?

A. No; it is quite a common practice.

Q. Did you see the Canton officers? You told about seeing the Massillon officers, did you see the Canton officers?

A. Only a few. I did not see all of them. I saw some of them. As I say, I had a good bit of clerical help out at the Republic office, and we had a number of them and we wanted to run them through fast, and these boys were going out and getting these signatures and bringing the signed applications to me.

Q. And I think you did say, but I will ask you the question again,—the Massillon officers whom you saw you say were good-sized fellows?

A. Yes.

Q. They looked like trustworthy, real honest-to-God men, if I might use that expression?

A. They were splendid physical types, and they had all of the appearances of being gentlemen.

Q. And when you said a moment ago, which brought the laugh from the audience—and I suppose it is in the record—that they were splendid physical types, you did not mean to imply that they were anything other than splendid from any aspect that you saw?

A. No. I did not want to commit myself in too general a way about it; that is, I do not think I am competent to read character quite as far as your question indicates.

Q. Well, they were a good looking set of men?

A. Yes. I would size them up as being good fellows.

They made a favorable general impression on me. That is what I am trying to suggest.

MR. DAY: That is all.

Redirect Examination

BY MR. LAUTER:

Q. I am not sure that I understand why $500 bonds were issued in Canton and $1000 bonds in Massillon. Is there any reason for that?

A. I cannot explain it. It is the way the bonds were filled in. It is what evidently the officials of the city asked for. That is as much as I know.

Q. Do you know whether or not a $1000 bond is necessary in the State of Ohio before you can carry a weapon?

A. Yes. A concealed weapon bond, as we call them, is made out, so far as my knowledge goes, invariable for $1000. But these were not concealed weapon bonds.

Q. You testified on direct about the usual practice of issuing bonds for the employer and the persons you were covering.

A. Yes.

Q. On cross examination there was some discussion of the fact that the City Prosecutor was there and you were there at the time the men were being sworn in. That was referred to as the usual practice, is that right?

A. Well, as I understand it, even a notary public could swear in a person as a policeman.

Q. What I am getting at is this: Isn't it the usual practice for the employer or the city to pay for the special policemen—to your knowledge? When you have issued bonds who has paid for them?

A. For special police, the employer paid.

Q. And is he generally on the payroll of the employer?

A. Yes.

MR. LAUTER: That is all.

MR. DAY: That is all.

MR. DONALD WAKEFIELD SMITH: I just want to make one point clear, and I am not quite clear on it. As I recall your testimony, you stated, did you not, that you would not have bonded these individuals had not the Republic Steel Corporation itself served as an indemnifier?

THE WITNESS: That was in connection with my testimony about the conversation with Attorney Cope. The only way my authority would extend to the execution of those bonds would be that I would be indemnified, or that the surety company would be indemnified, because I was forbidden to execute such bonds at the time of a strike without having an indemnity for the surety.

MR. DONALD WAKEFIELD SMITH: There is one other thing I would like to ask about. A minute ago I asked you in connection with Board's Exhibit No. 13 whether you had asked certain questions with regard to the employment of these particular individuals who were being bonded. You were aware that there was a strike situation existing both in Canton and in Massillon?

THE WITNESS: Yes.

MR. DONALD WAKEFIELD SMITH: Did you think that the element of risk under the terms of the bond would be greater if these particular individuals were employees of the Republic Steel Corporation, where the strike was occurring?

THE WITNESS: I can't say that I reasoned the thing out that closely. I would say that my opinion would be that it would depend upon the individual who was bonded, the temperament and the character of

that person, more than it would where he was employed.

MR. DONALD WAKEFIELD SMITH: But, in any event, the Republic Steel Corporation did indemnify the surety company, that is true?

THE WITNESS: That is true; yes.

MR. DONALD WAKEFIELD SMITH: Just one more question. You made a statement that when you and Mr. Gubbins walked into the office, or walked into the Massillon police station, Mr. Gubbins asked for Captain Curley. That is true, isn't it?

THE WITNESS: That is true. Mr. Gubbins, or Mr. Day—I am not sure which.

MR. DONALD WAKEFIELD SMITH: Do you know why he asked for Captain Curley rather than asking for the Chief of Police or the City Solicitor?

THE WITNESS: No, I don't know.

MR. DONALD WAKEFIELD SMITH: Do you know Captain Curley, I mean, did you at that time?

THE WITNESS: That was the first time I had seen him, to my knowledge.

MR. DONALD WAKEFIELD SMITH: That is all.

MR. EDWIN S. SMITH: I have just one or two questions.

BY MR. EDWIN S. SMITH:

Q. In making out these bonds for special policemen, do you ordinarily require more information from the individuals to be bonded than you asked for in this instance?

A. If an individual should come in and had no indemnifier, and he were a lone risk and we had to consider him separate and apart of an indemnifier, and pass on his qualifications without any indemnity to the surety, we would be very careful and we would look up his references, and we would make a much greater effort to be accurate in all those things than we would when there is an indem-

nifier, naturally, because if an employer is willing to employ or is willing to sign an indemnity agreement for a man, it shows that that employer has confidence in him or he would not be willing to risk that much money on him.

Q. You felt you were virtually assuming no risk?

A. That is true.

Q. It was for that reason, despite the fact that they were to serve as special policemen in circumstances which might surround their job, particularly at that time of the strike? It was for that reason you made no further inquiries as to the type of individuals they were, or as to their property or financial status, and what not?

A. Such as saying that some person you had a great deal of confidence in would tell you that some one that you wanted to hire was in every respect competent, and you would not go any further because you had confidence in the person who recommended him.

Q. Have you ever bonded special police before under circumstances similar to these?

A. Our office has,—I did not happen to handle the transaction—several years ago in the steel strike, but my partner, Mr. Duerr, handled it at that time.

Q. When was that?

A. I think that was 1920 or along about that time when we had a strike in Canton.

Q. When you were speaking about what was customary in the way of corporations acting as indemnifiers, what special police you were referring to whatever knowledge you had in your other experience in 1920? Is that correct?

A. 1920, and I think we had other experiences with indemnifiers, but I cannot recall the names of the interested parties now.

Q. With special police also?

A. Yes, with special police. That is, it wasn't any-

thing that was a puzzle to me at the time, for I knew there were precedents for it.

Q. Does the term "special police," in your vocabulary, and in the vocabulary of your company, mean police hired as these men were, and deputized by the employer, or does it also include a man serving as company guard and that sort of person? Just what do you mean by "special police"?

A. Special police are police employed by an employer other than the city or regular occupation; that is, they are guarding property or doing some service for an employer, such as the night watchmen. We have quite a number of those on our list who are acting as night watchmen for different properties. And they are usually qualified as special police. We use the words "special" and "private" to distinguish between a man who is on a regular police force and who is paid by the city. We distinguish between the regular police force and the private police force by that word "private" and "special."

Q. You understood the special duties of these special police were to protect the property of the Republic Steel Corporation?

A. I was trying to recall definitely enough to make some statement about it, but I cannot recall it very definitely. I didn't have any question that these men appointed in Canton, for instance, were going to be used, if the occasion required, to protect the homes, perhaps, of working men who went back to work.

Q. Where did you get that impression?

A. I was just saying the reason I did not state it before in my story was, I cannot quite collect myself as to where I got that impression, whether it came from some conversation in the mill office, or where it came from. I am sorry I cannot clear that up, but I cannot. I do have some impression that these men might be used, or I did have some impression that these men might be used to

protect the property of the men who went back to work. There had been some damage done to property of men who were in the mill working at that time.

Q. Do you recall how Captain Curley was described to you when you met him? Was he asked for by any title, or simply as Captain Curley?

A. They spoke of him as Captain Curley.

Q. He was the person asked for when you went into the station at the City Hall?

A. To the best of my recollection, that is so. It is possible since Mr. Day and Mr. Gubbins were ahead of me, that they asked for somebody else first, and that person was not present.

Q. Your first contact was with Captain Curley?

A. Yes. He ushered us back to the Chief's office.

Q. Did he stay there?

A. Yes, he was there.

Q. Did he seem to exercise any special function in the selection of the men? You say you don't recall much conversation about the qualifications of these men?

A. No, I was occupied. I would say most of these men were recommended by Captain Curley. But I wouldn't want to be pressed on that too far because I can't recall every one.

Q. The selection process had obviously been gone through before the men came in?

A. Yes, that is true.

Q. I mean, there were no men rejected; everybody who was there was bonded? Is that right?

A. That is my recollection. We did not throw out any in Massillon, but we did there in the Canton office.

BY MR. LAUTER:

Q. Have you ever bonded any special policemen for use by the city before?

A. As I understand it, all special policemen are under the direction of the Chief of Police and the Mayor.

Q. I mean special police for the city and used by the city?

A. I don't recall.

MR. LAUTER: That is all.

MR. DAY: That is all.

(Witness excused.)

MR. LAUTER: If the Board please, I believe the time for the filing of an answer has been extended, as appears from the Board's Exhibit No. 1.

MR. DAY: Before you do that, Mr. Lauter, may I interrupt for just a moment?

May the record show in accordance with the rulings thus far that the testimony of each of the witnesses has been admitted over the objection and subject to the exception of the Respondent; the objection being based upon the ground that the evidence does not tend to support any charge of the complaint, or show any violation of the Act. The objection and exception relate to each conversation, incident, and episode detailed by each witness. The objection was overruled and we have the exception. And we make a motion to strike on identically the same grounds, and that is overruled and we have an exception. And we make the same objection and exception to all of the exhibits offered by the Board, and that is overruled and we have an exception.

MR. EDWIN S. SMITH: Yes.

MR. DAY: Thank you.

MR. EDWIN S. SMITH: In other words, you may have your record all brass-bound in those respects, if you wish it.

MR. DAY: Thank you.

MR. LAUTER: I merely wish to call attention to the fact that as a part of Board's Exhibit No. 1, there is an order extending the time to answer until August 4, I believe. And I should like to adjourn this

hearing until August 4, on five days' notice to Counsel for the Respondent Company, and for the Steel Workers Organizing Committee.

MR. DAY: I would like to make this statement, that on August 4 I personally have to take a deposition in a case having nothing to do with the Republic at all, but a client of ours in a very important case who is now up in Hessel, Mich. It will be necessary for us to go up there and take that deposition. It has been definitely set for August 4th.

If some later date could be set than August 4th I will appreciate it very much because really we are committed, so far as August 4th is concerned, and it would be very embarrassing and almost impossible to change that date.

MR. EDWIN S. SMITH: When would you expect to be back from this trip?

MR. DAY: I would be through probably on the 4th or 5th. We figured on going up and going over the case on the 2d and 3d, and taking his deposition on the 4th. And it might last longer than that.

MR. EDWIN S. SMITH: Suppose we set the adjourned hearing for the 6th?

MR. DAY: I am afraid I could not get back by that time. Could the Board make it the following Monday, or make it the 11th, or can you give us more time? Frankly, this is something we wanted to talk over with the Board.

MR. EDWIN S. SMITH: I suggest rather than discussing the matter further on the record that we might perhaps adjourn to the ante-room for a few minutes regarding possible arrangements.

(Thereupon a short recess was taken, after which the following occurred:)

MR. DAY: If the Board please, Mr. Patton calls my attention to the fact that in saving the record,

which the Board said was brass-bound, I forgot to make an additional ground that none of the evidence, or any episode or conversation or incident related by any witness or exhibit, tends to connect Republic Steel Corporation with any charge in the complaint or violation of the Act.

May I have that as an additional ground?

MR. EDWIN S. SMITH: It may be so noted.

I take it the record does show that the several motions made by the Company has been denied.

MR. DAY: Yes, and overruled, and an exception noted.

MR. EDWIN S. SMITH: And the exception is noted.

On the matter of the adjournment, I would like to have the record state that in deference to the Board's desire to proceed promptly with what necessarily appears to be a rather lengthy case, and with deference also to the commitments of Counsel for the Respondent Company, we will adjourn this hearing until the date of Monday, August 9th; and the place of reconvening will be indicated by notice to the Company and the Union not less than 5 days before the time of hearing.

I hope that will be satisfactory.

(Thereupon, at 3:15 o'clock p. m., July 23, 1937, an adjournment was taken until Monday, August 9, 1937.)

Courtroom No. 3,
Stark County Courthouse,
Canton, Ohio,
Monday, August 9, 1937.

The above-entitled matter came on for hearing, pursuant to notice, at 10 o'clock a. m.

Before:

John T. Lindsay, Trial Examiner.

Appearances:

Mark Lauter, Esq., Lawrence Hunt, Esq., Oscar Grossman, Esq., and Joseph A. Hoskins, Esq., appearing for the National Labor Relations Board.

H. C. Pontius, Esq., of the firm of Lynch, Day, Pontius and Lynch (Canton, Ohio), and Luther Day, Esq., and Thomas F. Veach, Esq., of the firm of Day, Young, & Veach (1420 Union Trust Building, Cleveland, Ohio), appearing for the Respondent, the Republic Steel Corporation.

PROCEEDINGS

TRIAL EXAMINER LINDSAY: The hearing in the Republic Steel Corporation and Steel Workers Organizing Committee is now resumed.

Let me say to all spectators that there will not be any smoking in here, and neither will there be any outbursts of laughter, or any noise of any kind. Now, keep that in mind, or you will just have to be put out.

You may proceed.

MR. LAUTER: If you please, Mr. Examiner, I should like to introduce as Board's exhibit next in number, the order designating the Trial Examiner.

TRIAL EXAMINER LINDSAY: What number is that?

MR. LAUTER: That will be No. 15.

TRIAL EXAMINER LINDSAY: Board's Exhibit No. 15 is received in evidence.

(Thereupon, the document referred to was marked

"Board's Exhibit No. 15," and received in evidence.)

MR. LAUTER: If it please the Trial Examiner, I should like to substitute Board's Exhibit No. 1 for the copies of the charge and order permitting filing of charge with the Board, to the Board, two separate documents, the originals of those documents which I did not have at the commencement of the hearing, at this time.

I wish to explain that those documents were issued at the time of the Washington hearing, but I was unable to find them in the files,—they had not been located.

MR. DAY: They are marked?

MR. LAUTER: They are.

MR. DAY: Yes.

TRIAL EXAMINER LINDSAY: The substitution for Board's Exhibit No. 1 may be granted, and those exhibits received in its place.

(The documents referred to were thereupon substituted for Board's Exhibit No. 1, and received in evidence as Board's Exhibit 1.)

MR. LAUTER: If you please, Mr. Trial Examiner, I should like to incorporate, as a part of Board's Exhibit No. 1, the answer of Respondent, Republic Steel Corporation, in this proceeding. The answer is dated August 2, 1937.

I do not imagine there is any objection to that?

MR. DAY: No objection to that.

TRIAL EXAMINER LINDSAY: Received in evidence as part of Board's Exhibit No. 1.

(The answer referred to was received in evidence as a part of Board's Exhibit No. 1.)

MR. LAUTER: Take the stand, Mr. Porter.

HOWARD PORTER

a witness called for and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

MR. DAY: What is your name, please?

THE WITNESS: Howard Porter.

TRIAL EXAMINER LINDSAY: May I suggest to the attorneys on both sides that when you are putting a witness on the witness stand you give his full name, so that we will get it, all of us.

MR. LAUTER: Yes.

TRIAL EXAMINER LINDSAY: And spell it, also.

MR. LAUTER: Yes, that is my plan.

Direct Examination

BY MR. LAUTER:

Q. Mr. Porter, where do you reside?

A. 108 North Bluff Street, Butler, Pa.

MR. DAY: We can hardly hear.

MR. LAUTER: Speak up as loud as you can.

TRIAL EXAMINER LINDSAY: Talk up so that everyone can hear you.

THE WITNESS: Yes, sir.

BY MR. LAUTER:

Q. What is your occupation at the present time?

A. I am a paid organizer for the Steel Workers Organizing Committee.

Q. How long have you been a paid organizer for the Steel Workers Organizing Committee?

A. Since July 20, 1936.

Q. Have you been employed in the steel mills?

A. I have been employed at the Portsmouth Works, Wheeling Steel Corporation, for about 14 years.

Q. What area were you assigned as an organizer for the Steel Workers Organizing Committee?

A. I was assigned to the Canton-Massillon area.

Q. When did you come to that area?

A. I came into that area on July 23, 1936.

Q. What are the duties of an organizer for the S. W. O. C.?

A. The duties of an organizer is to contact steel workers, interest them in the organization, meet committees from different departments, and set up local lodges in the mill.

MR. DAY: May I interrupt just a moment?

(There was a discussion off the record on the subject of the noise created by the fan.)

BY MR. LAUTER:

Q. When you came to Canton, the Canton-Massillon area, where did you set up your headquarters?

A. We set our headquarters up at the Northern Hotel.

Q. Northern Hotel?

A. Yes.

Q. Is that located in Canton?

A. Canton; yes, sir.

Q. Thereafter, you commenced your duties as an organizer in this area?

A. Yes, sir.

Q. Now, precisely what distance did you cover in this area?

A. I covered Canton for about 30 days, and then I went to Massillon to work altogether, to work out of the Canton office.

Q. I see. When you say the Canton office, what are you referring to?

A. We established headquarters at 117 North—I cannot remember the street now.

Q. Is that Walnut Street?

A. Walnut Street, East Walnut.

Q. Those are the headquarters of the S. W. O. C. in Canton; is that correct?

A. Yes, that is correct.

Q. Did you do your organizing on foot, or use an automobile, or what?

A. I drove a car most of the time, because the fellows lived out of town that I had to see.

Q. I see. Have you ever been trailed?

A. I was trailed quite often.

Q. By whom?

A. By a car with license No. E-12.

Q. Will you describe when you first noticed you were being trailed?

A. It was just about a week after I came into Canton, another organizer, Mr. Price, went out—

Q. Mr. Price?

A. Mr. Price, Cortland Price, went out to make a call, and he came back into the hotel, he said, "I am being followed."

MR. DAY: Now, I object to that, what he said, on the ground it will be hearsay, and should not be admitted in this hearing as evidence.

TRIAL EXAMINER LINDSAY: Any objection—

MR. LAUTER: I would like to state, Mr. Trial Examiner, it has already been observed in this record that the ordinary rules of record do not apply, and under the Board's procedure I want to make a further observation with respect to this particular objection, that this is a report of conversation held and falls outside of the hearsay rule.

TRIAL EXAMINER LINDSAY: I will overrule the objection and let the record show an exception.

(Exception by Respondent.)

BY MR. LAUTER:

Q. Proceed.

A. Mr. Price came back into the hotel and told me, he said, "I am being followed."

MR. DAY: So that we may have an understanding, this entire conversation is under our objection and exception.

TRIAL EXAMINER LINDSAY: Yes, always, certainly.

MR. DAY: All right, without having to interrupt again.

TRIAL EXAMINER LINDSAY: We will admit the entire conversation, because I do not know what it is going to be.

MR. DAY: I see.

TRIAL EXAMINER LINDSAY: I am talking about this particular testimony—

MR. DAY: All right.

TRIAL EXAMINER LINDSAY: —which he gives in answer to this question.

MR. DAY: All right.

TRIAL EXAMINER LINDSAY: But when you object, you will note, when you follow the proceedings in just a few moments, that I will always reserve an exception for you whether you ask it or not.

MR. DAY: All right, thank you.

TRIAL EXAMINER LINDSAY: Because I assume you will ask it.

MR. DAY: Thank you very much.

BY MR. LAUTER:

Q. Proceed.

A. And then Mr. Price took me out and showed me these two men in this car, license E-12, that was following him.

I got out and started out, Mr. Price was with me, and they followed us practically all over Canton, and they kept that up for possibly three or four months; every time an organizer would step out of the hotel, or out of the office,

this same car, E-12, would be following us. It followed us on practically every time we would go out.

MR. DAY: E-12, did he say?

MR. VEACH: E-12.

BY MR. LAUTER:

Q. Did you determine how many people were in the car that was following you?

A. There was always two, it was a coupe, 1935 Ford coupe.

Q. They would always follow you in an automobile?

A. No, at times when we would leave the hotel and go out to breakfast, lunch, or dinner, if we were walking, or making a contact, walking, they would always follow us then, because they always parked across from the hotel, and watched the car when we were in there. I have had them follow me into the restaurant, back to the hotel, on the elevator, upstairs, and back down again.

Q. Did you determine where the two men who were in car license No. E-12 stayed in Canton?

A. They stayed in the Northern Hotel, a room below me, that fifth floor.

Q. Would they trail you around the hotel, also?

A. They would always watch us in the hotel, or in the lobby, or any place that they could get in to watch us.

Q. In connection with your organizing activity now, did you ever have occasion to go to Louisville, Ohio?

A. Yes, sir; I went quite a few times to contact the men out there. Mr. Sweeney and I, who was an organizer at that time, went to Louisville one afternoon to make some contacts. We got out toward Louisville, and got off the main road, up a lane, and we stopped to inquire where a fellow lived. Mr. Sweeney went in to—

Q. Who is Mr. Sweeney?

A. Mr. Sweeney is an organizer.

Q. What is his full name, do you know?

A. Guy L. Sweeney.

Q. Yes.

A. And while Mr. Sweeney was in making the inquiry in regard to where this fellow lived, I turned my car around, and when I turned my car around I seen this same car with license No. E-12 setting back down the lane, on the side of the road, and Mr. Sweeney came out, and he told me that he seen the same car.

Q. When you say "E-12," is that an Ohio license?

A. Ohio license.

Q. What year?

A. 1936.

And as I started my car and got out the lane, this same car went by me, going in the other direction.

When we got out toward the end of the lane, there was another car drove in, and backed into sort of a side road, just a bridge over a creek there, into a corn field, with about half of the car sticking out in the lane, and E-12, this license No. E-12, turned around behind me, came right in behind me, and I had a car in front of me, and one behind me, and just fortunately that I found a road leading off to the right through a corn field and got out of the way.

There was about five men in this sedan.

Q. In connection with your organizing work, do you hold meetings with the men?

A. When we came to Canton to start organizing there seemed to be a lot of terrorism among the workers. They were afraid to talk to an organizer publicly. They were afraid somebody would see them and report it to the boss. They knew that if the boss found out that they were organizing they would probably get into trouble.

MR. DAY: We object to that part of the answer as to terrorism, and the men being afraid, upon the ground it is a conclusion of the witness. We ask that it be stricken out.

BY TRIAL EXAMINER LINDSAY:

Q. Were these men to whom you are referring, who were afraid, with you, Mr. Porter?

A. How is that?

Q. Were these other men you were talking about being afraid, Mr. Porter, with you?

A. Yes, sir.

TRIAL EXAMINER LINDSAY: I will overrule the objection and let the record show an exception.

BY MR. LAUTER:

Q. You testified the men were afraid of being contacted by an organizer for the Steel Workers Organizing Committee. Will you explain the foundation for that remark?

MR. DAY: May we make the same record, please?

TRIAL EXAMINER LINDSAY: Do you mean you are making another objection to this question?

MR. DAY: Yes, Your Honor.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception.

MR. DAY: The purpose of saying "same record" is that when the Court has passed upon an objection and overruled it, and we have noted an exception, or the Court has allowed us an exception and then questions put and answered that we think are subject to the same objection, with the Court's permission we say "Same record" in order to save time, that meaning that an objection is made to the question, is overruled, and an exception noted. I don't think it is any particular practice in Ohio, but perhaps it will save time.

TRIAL EXAMINER LINDSAY: I thoroughly understand what you are getting at, but I wanted it stated in the record so that those who read the record will know what you are talking about.

BY MR. LAUTER:

Q. Will you answer the question, please?

A. What is the question?

(Question read as follows:

"Q. You testified the men were afraid of being contacted by an organizer for the Steel Workers Organizing Committee. Will you explain the foundation for that remark?")

A. On several occasions I have talked with steel workers, both in Canton and in Massillon, and they have told me not to come back to their homes inasmuch as they were afraid I was being watched, and they were being watched, and they did not want the boss, or the superintendent, to know that they were talking to an organizer. So we had to resort to holding meetings out of town after night, out in corn fields, in parks, and different places where we thought nobody was watching us, before we could get the men to meet. After we got that system started with the meetings out of town at different places, we had some very nice meetings.

BY MR. LAUTER:

Q. Do you know Mr. Laughlin?

A. Yes, sir.

Q. Did you ever have any conversation with him with respect to your organizing activities?

A. Yes, sir; quite a bit.

Q. Will you describe the conversation and tell what the conversation was?

MR. DAY: We object at this time for the same reasons already started.

Will you identify Mr. Laughlin and show who he is?

BY MR. LAUTER:

Q. Will you state who Mr. Laughlin is?

A. He is a steel worker and works in the Massillon Republic plant.

Q. Go ahead, please.

MR. DAY: We would like to object to this.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception.

BY MR. LAUTER:

Q. Will you proceed, please.

A. Mr. Laughlin is a steel worker I met in Sippo Park one evening about 7 o'clock. He told me that he was very much interested in the organization. We arranged a meeting after midnight of the same night for the 18-inch Bar Mill. We met and we had quite a number of men there. During the time of that meeting this same car, license E-12, had either followed me or found out that we were meeting in that park. They followed Mr. Laughlin home and found out where he lived. And after that this same car would watch Mr. Laughlin's house quite a bit.

Q. You say would watch his house? When you say that, what do you mean?

MR. DAY: We move the part about the car watching Mr. Laughlin's house be stricken out because unless this witness saw it it would be hearsay or conjecture on his part.

BY MR. LAUTER:

Q. Did you see it?

A. Absolutely. I have seen him sit in front of Mr. Laughlin's house for at least six hours at a time.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception.

BY MR. LAUTER:

Q. Have you ever been trailed or followed by anybody else except car E-12?

A. Yes, I have been followed by a Ford car, a Ford coach, about a 1930 model, in Massillon, and also by a Chevrolet sedan, about a 1935 model, in Massillon.

Q. When did you notice you were being followed by those two cars?

A. About two weeks after I went to Massillon to work in that field.

Q. What aroused your attention?

A. The mere fact that they were always round close to where I was at.

Q. How many men followed you in these cars?

A. In the Ford car, in the Ford coach, there was always two men, and in the Chevrolet sedan there were never less than four.

Q. Will you describe what your experience in connection with their trailing you or following you was?

A. On several occasions this old Ford car followed me, and I would always—

Q. What kind of a car did you drive?

A. I drove a Ford V-8. This car they drove was a slow car. They would follow me around in Massillon in making contacts. In other words, they would watch me so that I would not get to see any steel workers, because I did not want to get any steel worker in trouble. On one occasion I just wanted to be positive that they were following me, so I took them out around the mill.

Q. What mill do you refer to?

A. The mill at the Massillon plant, the Republic Steel Corporation.

Q. Where?

A. In Massillon, Ohio.

Q. What mill in Massillon of the Republic Steel Corporation are you referring to?

A. The Central Steel.

Q. Is that known as the Union Drawn?

A. No, that is the Central, the big plant.

Q. The Central Alloy Steel plant of Massillon?

A. Yes, sir. I took them out around the plant, which is about six or eight miles, on a dirt road, and very dusty. I did not drive very fast, to see if they were following me; and they did. They followed me two or three hours that afternoon. I could not stop to make any contacts because I did not want to let them see who I was talking to.

Q. You are testifying that you were followed by a Ford coupe and a Chevrolet sedan?

A. Yes.

Q. Did you ever follow them?

A. I followed the Chevrolet one time. He had been trailing me quite a bit, and I thought I knew who these fellows were in the Chevrolet, and I wanted to verify just who they were. So I was at Hecks Corners, just a little bit out of Massillon. I came out and just as I got into the car they drove by in the Chevrolet sedan. There were five of them in the car. They turned around and gave me several hard looks. So I just thought I would follow them to see where they went, and I did. I followed them and the car went on into the Union Drawn plant at Massillon.

Q. How is the Union Drawn plant connected with the Republic Steel Corporation?

A. It is a subsidiary, so far as I know.

Q. It is one of the Republic Steel plants?

A. Yes.

Q. And located where?

A. At Massillon.

Q. You say you followed them to the plant?

A. Yes. And they went into the gate and I turned off.

Q. On another occasion, had you seen the two men, or on any other occasions had you seen the two men whom you say were in the car that followed you?

A. Yes, on several occasions I seen the one fellow who drove the Chevrolet sedan. He was a watchman in the Union Drawn plant there. I seen him in uniform different times while passing out steel labor and hand bills, because he would always come down to the gate where we were at and talk.

Q. A watchman in uniform?

A. Yes.

Q. One of the company police of the Union Drawn plant of the Republic Steel Corporation?

A. Yes, sir.

Q. You identified him when you went there to pass out hand bills?

A. Yes.

Q. He was one of the men in the Chevrolet or in the Ford?

A. He was in the Ford and in the Chevrolet.

Q. You said there were two men who followed you in that Ford coupe. Is that correct?

A. Yes, the Ford coach.

Q. Did you ever see the other man?

A. I seen him inside the plant.

Q. Did you ever see him in uniform?

A. Yes.

Q. Was there anything peculiar about the manner of their dress, or their appearance, when they followed you?

A. Yes. When they followed me in this old Ford they always had a day or two growth of beard and their clothes were not so good. I thought it was very peculiar because I knew they could afford better than what they had on.

Q. They did not have on uniforms when they followed you in the car?

A. No, they were in plain clothes.

Q. Was there anything peculiar about the way they drove the old Ford?

A. Yes. On several occasions I thought their purpose was to wreck this old car, inasmuch as it wasn't much of a car.

Q. Do you know where Navarre is?

A. That is out of Massillon, about three miles.

Q. And you were then trailed by these two men?

A. Yes, sir.

Q. Describe the circumstances of that.

A. That was on the 23d of December, in the afternoon. I was parked at South Erie Street. As I came out of a pool room, after putting some cards up there, I noticed these

two men, and as I started out, out South Erie Street, they started out behind me, and I drove slow to see if they would follow me out, and they did, all the way to Reamer's Service Station.

Q. And why did you drive slowly?

A. I drove slowly to see if they would follow me, and I had made a complaint to Sheriff Nist.

Q. Who is Sheriff Nist?

A. He is the sheriff of this county, Stark County.

Q. Yes, and he told you what?

A. He told me that if they were following me out of Massillon, that he would have them picked up, and that was one of the reasons that I had been driving slow, to see if they would follow me.

Q. Go ahead.

A. I drove into Reamer's Filling Station, and they stopped just east of that station.

Q. Why did you stop at Reamer's Filling Station?

A. Mr. Reamer is a friend of mine and I wanted to show him just what was happening.

Q. Yes.

A. And I went and called the sheriff.

Q. Sheriff Nist?

A. Yes, Sheriff Nist; I called the sheriff's office, and I got hold of a deputy sheriff, and I told him what the trouble was. I said, "I will stay here and see if I cannot get a trailer to pick them up."

Q. Did you call any other office?

A. I called our office.

Q. What office?

A. The Canton office of the S. W. O. C.

Q. What did you tell them?

A. To see if they could send a couple of men out,—that there was men following me and had been following me around all the afternoon.

Q. Did they send anybody out?

A. Yes, sir,—three men, Mr. Sweeney, Mr. Gent, and Mr. Cope.

Q. What happened after that?

A. I stayed in the station and watched these two men sitting in the car.

Q. About how long did you stay in the station watching the car?

A. About twenty minutes.

Q. What happened then?

A. After that, the car came along with the three organizers in it.

Q. What did they do?

A. They came into the station and I showed them these two men, and they stayed in there about five minutes, and the men drove off.

Q. You say the men drove up from the S. W. O. C. and stayed there about five minutes, and the two men drove off?

A. Yes.

Q. What happened then, after that?

A. I asked Mr. Sweeney who was driving the car to follow them and see where they went.

Q. Did Mr. Sweeney follow them?

A. Yes, he started out to.

Q. What about the other men?

A. The sheriff's cruiser drove into the station.

Q. Yes.

A. Just as they drove into the station, I was talking to the deputy sheriffs, and I told them they went down that way (indicating). And just about that time they came back to the filling station.

Q. You say, "They came back to the filling station"; you are referring to the two men who were following you?

A. Yes.

Q. To whom did you point them out?

A. To the sheriff's deputy.

Q. What happened then?

A. The deputy sheriff went around and pulled these two men that had been following me, into the station.

Q. What happened then?

A. He searched them, and their car, and asked them for their names, and what they were doing.

Q. Did the men tell him their names?

MR. DAY: Did this witness hear this conversation?

BY MR. LAUTER:

Q. Did you hear this conversation?

A. Yes, sir.

Q. Go ahead.

A. After the deputy sheriff arrested them, he took them in to the county jail, and they told their names, or what they gave as their names.

Q. Do you recall the names that they gave?

A. Long and McAllister.

Q. What happened after that?

A. The deputy sheriff asked me if I wanted to file charges against them.

Q. Yes.

A. I told him yes, that I would, just as soon as I got back to the office.

Q. What happened then?

A. I went back to Canton, and I contacted the men, that is, Mr. Cope of the S. W. O. C. Committee, and went to the district attorney's office and asked him what charges I could prefer against these two men, and he told us there was not any law covering it, and so I could not prefer charges against them. And so, I went to the county jail and told Mr. Kellner that he would have to turn them loose.

Q. Have you seen either of these two men at any time subsequent to the occasion you are referring to, when they

were picked up—incidentally, can you tell me approximately when that was that they were picked up?

A. The 23rd of December.

Q. 1936?

A. Yes.

Q. Now, answer my question as to whether or not you saw them at any time subsequent to that date?

A. Subsequent?

Q. Yes, — at any time subsequent to that date, when they were picked up.

A. I just don't get your question.

TRIAL EXAMINER LINDSAY: After.

THE WITNESS: Yes, I have seen them several times after that. At one time that I remember, it was at a fish fry given by the employees of the Union Drawn Plant, given at Eagle's Hall.

BY MR. LAUTER:

Q. Where is that?

A. Massillon, Ohio.

Q. Yes.

A. I had got four tickets to the fish fry, and I went to the fish fry accompanied by Mr. Hardesty, Mr. Mitchell, and Mr. Elmer Jordan. At the minute I got into the fish fry, I seen McAllister and Long and they followed me all around during the time I was in the fish fry. One of them followed me so close that he stepped upon my heels. I did not get a chance to talk to anybody.

At one time McAllister and Long were accompanied by two other fellows, and they all followed me to a small room back of the main hall.

So I knew I was going to get into trouble if I stayed there. And so I got the other two boys and told them that I expected trouble if I stayed there, and they followed me out. Mr. Hardesty and Mr. Jordan got out all right. Mr. McAllister and Mr. Long blocked the doorway of the office on the way out. I had to pass them. They were doing that

to cause trouble, to start trouble with the prospect of giving me a good beating.

Q. Did you finally leave the fish fry?

A. I had to, and on the way downstairs, these fellows, Long and McAllister, got on the elevator and they followed me clear to the car, accompanied by 15 or 20 of their men.

Q. And you went off?

A. Yes, sir.

MR. LAUTER: That is all.

Cross Examination

BY MR. DAY:

Q. You are now an organizer for the Steel Workers Organizing Committee?

A. Yes, sir.

Q. And what connection has that Committee with the C. I. O.?

A. It is an affiliate of the C. I. O.

Q. How long have you been an organizer?

A. I have been an organizer since the 20th of July, 1936,—a paid organizer.

Q. And what was your business before that?

A. I was a steel worker.

Q. With what company?

A. The Wheeling Steel Company, Portsmouth, Ohio.

Q. For how long?

A. About 14 years.

Q. Continuously?

A. Yes, sir.

Q. You worked at Portsmouth?

A. Yes, sir.

Q. How did you happen to come to the Canton-Massillon district?

A. I was sent here by Mr. Golden.

Q. Mr. who?

A. Mr. Clinton S. Golden.

Q. Who is he?

A. He is attorney of the Northeastern Steel Workers Organizing Committee.

Q. You came here at his instance?

A. Yes.

Q. And when?

A. The 23rd of July.

Q. 1936?

A. Yes.

Q. How long did you stay here?

A. Until the 3rd of February, 1937.

Q. Did you leave here?

A. Yes, sir.

Q. Where did you go from here?

A. I was sent to Aliquippa.

Q. Down in Pennsylvania?

A. Yes, sir.

Q. And how long did you stay there?

A. Until about three weeks ago, and then I was sent to Buffalo.

Q. And then you did not come back to this Canton-Massillon area, after you left—was it February 3rd?

A. February 3, 1937.

Q. But you came on here to carry on your work for the S. W. O. C. Committee?

A. Yes, sir.

Q. And that is the work you did while you were here?

A. Yes, sir.

Q. And did you let it be known generally that you were a worker for the S. W. O. C.?

A. Yes, sir,—everybody that I contacted.

Q. You made no attempt to keep hidden the fact that you were an organizer for the S. W. O. C.?

A. No, sir.

Q. And you established an office where here in Canton?

A. 117 Walnut Street, Northeast.

Q. When did you open up that office?

A. I cannot tell you the exact date.

Q. About when?

A. It was in September, I believe, about a month and a half after I came here.

Q. 1936?

A. Yes.

Q. And was that office there when you left?

A. Yes.

Q. It had been there continuously?

A. Yes, sir.

Q. Who else was with you?

A. Cortland H. Price.

Q. Now what was that first name?

A. "Cortland."

Q. Where did he come from?

A. Portsmouth, Ohio.

Q. And what other men?

A. Elmer Cope.

Q. Where did he come from?

A. Warren, Ohio.

Q. Who else?

A. Lee Hall.

Q. Where did he come from?

A. He was a director of the State of Ohio, and came in to instruct us as to what to do.

Q. Where were his headquarters?

A. At Columbus, at that time.

Q. But during recent months, that is the Hall that was elected in Warren or Niles or somewhere?

A. No, sir, that is not the same one.

Q. Oh, you know the Hall that I have in mind, and this man is not the same one?

A. That is right.

Q. Where is he now?

A. I think, in Cleveland.

Q. Did anybody else come?

A. No, sir.

Q. And then you started organizing your union?

A. Yes, sir.

Q. These two men that you told Mr. Lauter about, you say they started to trail you?

A. Yes, sir.

Q. And they would trail you into restaurants?

A. Yes, sir.

Q. You would get into an elevator, and they would get in right behind you, would they?

A. Yes, sir.

Q. And did they make any efforts to disguise the fact that they were following you?

A. At times they did not make any efforts to disguise that fact, and at other times they tried to keep it hidden.

Q. How many times did they get into an elevator with you?

A. On several occasions.

Q. And on any of those occasions, did you have any conversations with them?

A. Only one time did I have any conversation with them.

Q. How long was that after they started trailing you?

A. About a week.

Q. And they kept right on trailing you, after that?

A. Oh, yes.

Q. I could not understand from your testimony whether the men who gave their names as "Long" and "McAllister" were the same men who trailed you in car E-12, or different men?

A. They were different men.

Q. The complaint you made to Sheriff Nist, that related to Long and McAllister?

A. Yes.

Q. You did not make any complaint to Sheriff Nist about the E-12 men?

A. Yes, sir.

Q. I wish you would describe these E-12 men—you will understand what I mean by "E-12"?

A. Yes.

Q. Take them now, one at a time.

A. The driver of the car was a fellow that was slender, and looked to be about 45 years old, and he had what looked to me to be a bad arm, a stiff arm.

Q. Right or left?

A. Left. The other man was a man about 180 pounds, light-complected, and wore glasses.

Q. What color of hair did the first man have, with the bad arm, as you said?

A. He had light brown hair, as I remember.

Q. Did I understand that they trailed you for a while, and then somebody else started to trail you?

A. They trailed me at the same time that this Long and McAllister did; one would drive it a while, and then the other.

Q. You talked about a man that had a Ford car, and somebody that had a Chevrolet sedan; were those the same men?

A. The Long man drove the Ford, and McAllister drove the Chevrolet.

Q. Then they did not go together?

A. Whenever they drove the Ford, Long drove.

Q. And, the other way around?

A. Yes.

Q. But, the two E-12 men did not drive that car?

A. No, sir; they drove the Ford coupe.

Q. You complained to the sheriff on the 23rd of September, 1936?

A. No, sir; I complained before that.

Q. What time of day would you say it was, on September 23rd, 1936?

A. Around three o'clock in the afternoon.

Q. And you have been doing field work here since about February, 1937?

A. No, sir,—I have been back visiting several times.

Q. And you have told us all here, Mr. Lauter and the Examiner, and the rest of us, of all the activities of these men?

A. Yes, sir.

MR. DAY: At this time, the Respondent moves the Court to exclude the testimony of this witness upon the ground that there is nothing at this time to connect it with the Respondent, or to make the Respondent responsible for it, or to show that the Respondent had knowledge of it.

TRIAL EXAMINER LINDSAY: The motion is overruled; let the record show an exception.

MR. LAUTER: That is all.

(Witness excused.)

TRIAL EXAMINER LINDSAY: If you gentlemen want a five minute recess, I will give it to you.

(Whereupon a short recess was taken.)

TRIAL EXAMINER LINDSAY: Tomorrow morning we will have a larger hearing room, I am informed. It will be right across the hall in courtroom No. 1. Tomorrow morning the hearing will begin at 9:30.

You may proceed, Mr. Lauter.

MR. LAUTER: I will call Mr. Sweany.

GUY L. SWEANY

a witness called by and on behalf of the National Labor Relations Board, and, being first duly sworn, testified as follows:

Direct Examination

BY MR. LAUTER:

Q. Please state your name.

A. Guy L. Sweany.

Q. Where do you reside?

A. No. 430 Wolfe Court, Northwest, Canton.

Q. You have been employed as a steel worker?

A. Yes.

Q. Where?

A. Republic Steel Corporation, Canton plant.

Q. For how long a period have you been employed?

A. I worked there several times. The last occasion was from 1925 to 1935.

Q. What kind of work have you done?

A. I was a feeder on the 8-inch Bar Mill.

Q. Have you done any organizing work for the Steel Workers Organizing Committee?

A. I have.

Q. When did you start doing organizing work for them?

A. I started about the first of July, 1936, as a volunteer organizer.

Q. And you also worked as a paid organizer?

A. I did.

Q. When did you start work as a paid organizer?

A. August 1, 1936.

Q. At the present time, what are you engaged in doing?

A. Organizing work for the Steel Workers Organizing Committee.

Q. Do you know Mr. Howard Porter, who has been a witness in this proceeding?

A. I do.

Q. When did you first meet him?

A. I met him in the latter part of July, 1936.

Q. In connection with your organization work, did you cooperate with him?

A. I did.

Q. I asked what your activities were, I believe?

A. Our work was to make individual contacts with steel workers, and on many occasions I went with Mr. Porter and made individual contacts at home and met small groups at various places, not too public, in the country, and so on.

Q. You say not too public?

A. Yes.

Q. Where did you have meetings that were public?

A. The men were afraid the company would find out they were meeting with organizers, or signing application cards, and they would lose their jobs.

MR. DAY: I move to strike that out as hearsay, and as a conclusion.

MR. LAUTER: I will consent that the answer be stricken.

BY MR. LAUTER:

Q. State whether or not you had any conversations with any of the men you contacted?

A. Yes.

Q. And state what those conversations were with respect to your organizing activities, and their attitude in being contacted?

A. All of the men were willing to sign applications, but many of them expressed the fear that the company would find it out. We reassured them—

MR. DAY: I move to strike that out.

BY TRIAL EXAMINER LINDSAY:

Q. Did they make these statements to you?

A. They did.

TRIAL EXAMINER LINDSAY: The motion is overruled. You may have an exception.

BY MR. LAUTER:

Q. Have you ever been trailed?

A. I have.

Q. By whom have you been trailed?

A. I have been trailed by a Ford car with license E-12 on several occasions. I was also trailed by another car, the license number of which I did not get.

Q. You heard Mr. Porter testify about being trailed on a trip that he took into the country to see somebody about joining the Steel Workers Organizing Committee?

A. I heard part of his testimony.

Q. Did you accompany Mr. Porter on that trip?

A. I accompanied Mr. Porter on a trip to Louisville.

Q. Will you describe what occurred on that trip to Louisville?

A. When we were going out near Louisville to contact a man who lived at a farm house near Louisville—

MR. DAY: May I interrupt? I don't know what the rule of the Examiner will be as to the exclusion of witnesses.

MR. LAUTER: If you please, Mr. Examiner, there has already been an application by Mr. Day to exclude witnesses—that is, at the hearing in Washington. And I believe he was advised at that time by Mr. Smith, who was Acting Chairman of the Board, that there would be no exclusion of witnesses at this hearing.

MR. DAY: That is right.

MR. LAUTER: I assume the Trial Examiner will follow the same ruling set by the Chairman of the Board in that respect.

TRIAL EXAMINER LINDSAY: As I understand it, there was a refusal to exclude witnesses?

MR. LAUTER: Yes, Mr. Examiner. All of the witnesses were permitted to remain in the hearing room during all of the testimony.

TRIAL EXAMINER LINDSAY: Oh, yes; surely they will be permitted to remain in the courtroom.

MR. DAY: May the record show the application?

TRIAL EXAMINER LINDSAY: The record will show you have made such a request and the request has been denied. You may have an exception.

MR. DAY: Thank you.

BY MR. LAUTER:

Q. Will you please continue with your experience on the occasions you accompanied Mr. Porter out to Louisville?

A. The address of this man was R. D. Louisville, and we did not know exactly where it was, so we inquired at a farm house about where this man lived. While I was on the porch talking to the lady at the house, I observed that E-12 stopped in the road very near the house; when I came back to the car, in the meantime, Mr. Porter had turned the car around and headed it in the same direction we came from. I told him our friend E-12 was with us, and he said he had seen it.

Just then the car drove out of the ditch and onto the road, or highway, and passed us.

We started to drive back, and just then we saw ahead of us another car, a black sedan, with four or five men in this car. It had backed off the highway with the front wheels on the highway. It looked like a trap. We discovered a lane to the right that we thought we could drive on. We turned to the right on the road and escaped these two cars.

Q. Do you know Mr. Schleppi?

A. I do.

Q. Did you ever go out with him while you were organizing?

A. I did, on several occasions.

Q. Were you ever trailed when you were out with him?

A. On one occasion I recall we were trailed when I was with Mr. Schleppi.

Q. Will you describe that, please?

A. We were leaving the office, or headquarters, at No. 117 Walnut to take a Mr. Gent to his hotel. After we had taken Mr. Gent home we were going to make a call out at North Canton. As I stopped at the hotel, I observed a car stopping quite a ways back, and I said to Mr. Schleppi, "you better watch this car in the rear. He is acting suspicious."

We drove on to the corner and stopped again, and again he stopped. I turned to the right on Cleveland Avenue and I said, "Observe the license number. He may be following us." He said, "No, I don't think so. The license number is E-12."

I told him, "That is the man who has followed us on many occasions. We will have to drive around town a bit to lose him."

We turned to the right on Second or Third Street and made several right turns down town before we came back onto Cleveland Avenue, and headed north for North Canton.

Q. Had you observed the E-12 on other occasions?

A. I had on many occasions. I noticed the car parked on the lot across the street from the Northern Hotel, where the organizers were staying, which was temporary headquarters when they first came to town. There were always two men in the car, and they kept the car near the sidewalk, and as soon as the organizers would get into the car to drive away they would immediately follow.

On another occasion I noticed the driver of this car

and the man with him came into the restaurant where I was eating, and one sat on each side of me. They ordered no food but just read the newspaper until I was through and left the restaurant.

Q. Did you receive a call, or were you present when a call for Mr. Porter came on September 23d, at headquarters of the Steel Workers Organizing Committee?

A. I was. Mr. Gent received the call.

Q. Did you have any conversation with Mr. Gent about the telephone call?

A. While Mr. Gent was talking to me, he said, "Porter is in trouble at Massillon," and then said, "Where is Reamer's Filling Station?" I said, "Never mind inquiring from Mr. Porter. I know where it is. What is up?"

He said, "Well, there have been men following him all day over there and they now have him cornered, or spotted, at this filling station. We better go over there."

We all three got into my car and drove to this filling station, which is on the road to Navarre near Navarre, Ohio.

Q. Who got into the car and went with you?

A. Mr. Gent and Mr. Cope.

Q. Describe what happened when you got to Reamer's Filling Station?

A. When we got there Mr. Porter pointed out the two men. They were sitting in a Ford car, a Model A Ford car, near the entrance to the filling station off the highway. He said, "There they are. They have been sitting there for some time." He said, "I am expecting the deputies and expected them several minutes ago."

We waited in the filling station about five or ten minutes, and then these people drove away in the Model A Ford. Mr. Porter said, "You better get into your car and see where they are going. I expect the deputies any minute."

I got into the car and started in the same direction

they went, and I noticed they were turning around and coming back, so I backed my car to the filling station and turned around. And just then two of the deputy sheriffs arrived.

I parked my car and when I walked up to where they were, the deputies were asking them questions.

Q. Did you have any conversation with either of the men in the car at that time?

A. The only conversation I recall was that I asked the men if they worked for the Republic Steel, and one of them answered yes.

Q. What happened after that?

A. After that the deputies took them with them to Canton. I don't know what happened after they arrived there.

Q. When you started organizing, did you hold meetings, or secret meetings? I mean open meetings or secret meetings? What was your experience?

A. We held secret meetings.

Q. Why did you do that?

A. Because the men were afraid to attend open meetings.

Q. When you say they were afraid, you say that for the record—

MR. DAY: I move to strike out on the same ground—that is, when he said they were afraid.

MR. LAUTER: I consent to it being stricken from the record.

BY MR. LAUTER:

Q. State what conversation you had with the men you were organizing?

MR. DAY: I object as incompetent, irrelevant, and immaterial, and it has no bearing upon any issue involved in these proceedings.

TRIAL EXAMINER LINDSAY: The first one

is consented to, so there is no necessity to rule thereon.

You are now objecting to a further question. That objection is overruled. Let the record show an exception.

BY MR. LAUTER:

Q. Will you proceed, please?

A. As we were making individual contacts, all of the men said that they had to be careful, that "if the company finds we belong to the union we will lose our jobs." So when we asked them to come to the meetings, they would say, "Where will it be and who will be there? Unless it is a secret meeting we will not attend."

So we held secret meetings in the country and in homes.

Q. Did you tell the men you were being followed?

A. I did not.

Q. Why didn't you?

A. I felt this would further terrorize the men.

Q. Did you have a conversation with some one who was a former member of the Amalgamated at the time you were organizing?

A. I don't understand the question.

Q. Did you have a conversation with some one in which he expressed fear as to your coming to his house?

MR. DAY: I object to that.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception.

BY MR. LAUTER:

Q. Did you hear the question? Do you want it repeated?

TRIAL EXAMINER LINDSAY: Mr. Reporter, will you please read the question?

(Question read as follows:

"Q. Did you have a conversation with some one in which he expressed fear as to your coming to his house?")

THE WITNESS: One man I called on who was a friend of mine who had been active in organization work before, told me he was expecting me to call.

MR. DAY: We object to that on the ground it is incompetent, irrelevant, and immaterial.

BY TRIAL EXAMINER LINDSAY:

Q. You had this conversation with him yourself, did you?

A. I did.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception.

THE WITNESS: I asked this man why he was expecting me, and he said the superintendent told him he could expect a call from an organizer soon, and he better watch his foot.

This man was not very anxious that I remain at his house. He said he was in favor of organized labor but he had to be careful, and for the present he would like to take no share in the organization.

Q. Do you know Mr. Thomas Pastorious?

A. Yes, sir.

Q. Who is Mr. Pastorious?

A. Mr. Pastorious is an employe of the Republic Steel Corporation.

Q. Did you ever visit him or contact him in connection with your organization work?

A. I did.

Q. With whom did you go to see him?

A. Kenneth Poorman.

Q. Will you describe your experience in contacting Mr. Pastorious?

MR. DAY: I object upon the ground it is not binding upon the Respondent. The Respondent is not shown to have knowledge of it, and I object as incompetent, irrelevant and immaterial and as having no bearing on any complaint involved in this case.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception.

BY MR. LAUTER:

Q. Please proceed.

A. Kenneth Poorman was with me, and I contacted Mr. Pastorious at his home and asked him if he was interested in the organization, and he said, "No, I am a foreman now and as a foreman I am supposed to quash all talk of organization in the shop."

MR. LAUTER: That is all.

Cross Examination

BY MR. DAY:

Q. Did you work with Mr. Porter while he was here?

A. Yes.

Q. He left in February, 1937?

A. I don't recall exactly.

Q. When was it you had this talk with Pastorious?

A. In the latter part of 1936 or early in 1937.

Q. As to these men who were following you in the car, were there ever more than two in the car?

A. The black sedan had four or five in it on various occasions. The driver of the E-12 and one other person was all that was in that car.

Q. Just two of them?

A. Yes.

Q. How many were in your car that was being followed?

A. Sometimes just Mr. Porter and I, sometimes I was alone, and on other occasions I was with Mr. Price in his car.

Q. Did you ever have more than two in your car when only two were following you?

A. Not that I recall. There may have been three.

Q. And these instances you have been describing, occurred in 1936?

A. That is right.

MR. DAY: That is all.

MR. LAUTER: That is all.

MR. DAY: May we make the same motion to strike out this testimony as we made with relation to the testimony of the Witness Porter, and on the same grounds?

TRIAL EXAMINER LINDSAY: Yes. And your motion is denied. Let the record show an exception.

(Witness excused.)

MR. LAUTER: I will call Chief Deputy France.

R. R. FRANCE

a witness called for and on behalf of the National Labor Relations Board, after being first duly sworn, testified as follows:

Direct Examination

BY MR. LAUTER:

Q. Will you please state your name?

A. R. R. France.

Q. Where do you reside?

A. Alliance, Ohio.

Q. What is your occupation?

A. Chief deputy sheriff:

Q. How long have you been chief deputy sheriff?

A. Three years.

Q. Were you chief deputy sheriff on September 23, 1936?

A. I was.

MR. LAUTER: I will ask you to mark these papers for identification.

(The documents above referred to were thereupon marked for identification "Board's Exhibits 16 and 17.")

BY MR. LAUTER:

Q. Mr. France, I hand you Board's Exhibits, for identification, 16 and 17, and ask you to identify them?

A. Those are releases issued by Deputy Ted Koellner for two men by the names of Harold McCallister and Morris Long, that he had brought in for some reason or other.

MR. LAUTER: I offer these in evidence as Board's Exhibits 16 and 17.

MR. DAY: We object on the ground they have no relevancy or bearing upon any issue presented by the complaint. That is the only objection we make at this time.

TRIAL EXAMINER LINDSAY: The objection is overruled. Board's Exhibits 16 and 17 are received in evidence. Let the record show an exception.

(The documents previously marked for identification "Board's Exhibits 16 and 17," were received in evidence.)

BY MR. LAUTER:

Q. You are the Chief Deputy Sheriff for Stark County, Ohio? Is that correct?

A. That is correct.

MR. LAUTER: That is all.

(Witness excused.)

WALTER P. KOELLNER

a witness called for and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

BY MR. LAUTER:

Q. Please state your name.

A. Walter P. Koellner.

Q. It should be apparent, but I will ask you what your occupation is?

A. Officer, City of Canton Police Department.

Q. Where do you reside?

A. 1812 Ninth Street, Southwest, Canton, Ohio.

Q. How long have you been an officer on the Canton Police Force?

A. Since May 1, 1937.

Q. On September 23, 1936, what was your occupation?

A. I was Deputy Sheriff of Stark County under Joseph T. Nist.

Q. Do you recall September 23, 1936?

A. I do.

Q. Did anything unusual occur on that date in connection with your duties?

A. I received a complaint from a person known as Porter. I believe his name was Howard Porter. He said he believed himself to be in danger of bodily harm, or his automobile or property, at Navarre, at that time.

Q. What did you do about it?

A. I asked the cruiser working the west end, known as No. 2, to call into the office, which they did. I told them to contact the complainant at Reamer's Filling Station, Navarre, Ohio.

Q. Had Mr. Porter located where he was on that day when he complained?

A. I don't know. I wasn't there.

Q. How did you know to send him out to Reamer's Filling Station?

A. That is what he told me in his complaint, that he was at Reamer's Filling Station in Navarre.

Q. What took place on the basis of this complaint? Will you state that for the record?

A. I don't understand your question.

Q. What took place after you heard this complaint from Mr. Porter, and you advised your superior to send out a cruiser? Do you know what took place after that?

A. The cruiser men, of which Deputy Ronk was in charge, contacted Mr. Porter and they were informed that a car had followed him—that is, Mr. Porter said that.

MR. DAY: Did this witness hear this at all?

BY MR. LAUTER:

Q. State how much of this you know as a result of your own conversation with some one?

A. At the time the men were brought to the county jail on the charge of suspicion, the cruiser men informed me that Mr. Porter and someone else connected with him was going to file charges against these men.

Q. Whom did you have that conversation with who gave you the information you are now speaking of?

A. Deputy Ronk.

Q. What else did Deputy Ronk have to say?

MR. DAY: We object upon the ground it would be clearly hearsay. Even though the rules of evidence that apply in courts do not apply here, we suggest respectfully to the Examiner this would be nothing but absolute hearsay. If Mr. Ronk is available he can testify to it.

BY TRIAL EXAMINER LINDSAY:

Q. As I understand this, the other officer brought those men back to the jail where you were located?

A. That is right.

Q. And at that time the man who brought in those men talked to you about the whole thing that was done at the time the arrest was made? Is that correct?

A. That is right.

Q. And you saw these two men brought in?

A. I did.

Q. And you talked to these two men?

A. I did.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception.

BY MR. LAUTER:

Q. Will you state what your conversation was with Mr. Ronk?

A. Deputy Ronk said that he contacted these men and asked who they were and what their business was and why they were following this car, as the complainant had stated. They informed Deputy Ronk that it was none of his business, upon which he searched the men and the car and brought them into the county jail and told me they did not wish to give them any information whatsoever at the time they were picked up.

Q. Did you have any conversation with these two men who were brought in?

A. I did.

Q. Will you state for the record what that conversation was?

MR. DAY: I object to that upon the ground there is no evidence tending to show that the conversation was known to the Respondent, and no evidence tending to connect the two men with the Respondent.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception.

BY MR. LAUTER:

Q. Will you answer the question, please?

A. Will you repeat your question?

Q. Did you have any conversation with these two men who were brought in?

A. I asked these two men who they were. At first they refused to tell me who they were, or what their business was. I put one man in one location and another in another location in the jail for some approximately fifteen to twenty minutes, at which time I talked to them separately. Mr. McCallister told me he was an employe of the Republic Steel and that he was a plant policeman at the Union

Drawn Mill in Massillon, and that he had business following this car.

I then put the question to Mr. Long, and he admitted the same. I brought the two together and they both admitted they were employed by the Republic Steel as policemen.

Q. When you say they had business following the car—

A. They told me that it was special work assigned to them.

Q. Special work assigned to them as policemen at the Republic Steel Corporation?

A. Yes, sir.

Q. I hand you Board's Exhibits 16 and 17 and ask you whether or not you have ever seen them before?

A. Yes, sir. I typed those out and had the men sign them at the time they were released.

Q. You typed out personally Board's Exhibits 16 and 17?

A. Yes. I was unable to find any waivers at that time in the office, so I typed those out.

Q. And you had the men sign these waivers?

A. I did.

MR. LAUTER: That is all.

Cross Examination

BY MR. DAY:

Q. Those blue papers there are waivers by Long and McCallister of any claim against the sheriff? I mean by reason of the confinement of the men in the county jail?

A. That is right.

MR. DAY: Does the Court want to see one of them?

TRIAL EXAMINER LINDSAY: Yes, I would like to see one.

BY MR. DAY:

Q. And is it the custom for the sheriff's office to take that kind of release or waiver?

A. It is.

Q. No charges were preferred against these men?

A. That is right. We had no charges.

Q. How long did they stay in the county jail?

A. Roughly, I would say an hour or an hour and a half.

Q. And the complaint that was made against them by Mr. Porter was that they were following him and he was afraid there might be some damage done to him or to his car?

A. That is right.

Q. There was no charge of damage actually involved at any time?

A. That is right.

Q. There was no charge that there had been damage?

A. No.

Q. Either to him or to his car?

A. No.

Q. And this was back in September, 1936?

A. That is right.

MR. DAY: That is all.

May we make the same motion to strike out the testimony of this witness, on the same ground?

TRIAL EXAMINER LINDSAY: Yes. And the motion is denied. Let the record show an exception.

MR. LAUTER: That is all.

(Witness excused.)

TRIAL EXAMINER LINDSAY: It is so near 12 o'clock that I do not think we would better start with another witness. We will reconvene at 1:15.

(Thereupon at 11:50 o'clock a. m., a recess was taken until 1:15 o'clock p. m. of the same day.)

Afternoon Session

(The hearing was thereupon resumed at 1:20 o'clock p. m., pursuant to the taking of the recess.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

MR. HUNT: I will call Mr. Kirkland.

EDWARD KIRKLAND

a witness called by and on behalf of the National Labor Relations Board, and being first duly sworn, testified as follows:

Direct Examination

BY MR. HUNT:

Q. Please state your name.

A. Edward Kirkland.

Q. Mr. Kirkland, where do you live?

A. 1407 Fulton Road, Northwest, Canton, Ohio.

Q. What is your occupation?

A. Steel worker, Republic Steel Corporation, tin mill division.

Q. How long have you been employed by the Republic Steel Corporation?

A. Well, I have been employed by the Republic Steel ever since it has been in operation in Canton. When they bought out the Central Steel I was working then. I started to work in 1907, with the company—that is, their predecessors—and continued on until the present date—30 years.

Q. How long have you been working in the tin mill division?

A. Since December, 1930.

Q. What is your position in the tin mill?

A. Roller.

Q. Roller?

A. Yes, sir.

Q. Were you employed in June, July, and August of 1933, employed in the tin mill division?

A. Yes.

Q. Do you know of a plan of representation of employes which operated in the tin mill division?

A. Yes, sir.

Q. Will you tell the Court, please, as fully as you can, how you first came to know of this plan of employes' representation?

A. Well, the plan was presented to us by—or the company had asked us if we cared to take up a plan of this sort—that is, the Davey Company—we were working for the Davey Company at that time—they asked us if we cared to take up a plan of this sort. They wanted us to consider it.

Q. Who asked you?

A. The Davey Company, the people who owned the plant.

Q. And was there any particular individual who asked you?

A. If I am not mistaken, Bill Davey was the spokesman—he was head of the company at that time.

Q. Did they ask you individually?

A. No, as a body, and then there was a committee appointed to draft a constitution, and that was presented to the men for their approval.

Q. Who appointed the committee?

A. Well, nobody in particular; this committee was a committee of the Mutual Benefit Society, and that same committee were the ones who drafted this constitution for our company union.

Q. Who requested this Mutual Benefit Society committee—was there any individual requested?

A. No, there was no individual. They being the only ones in existence, naturally they would be the ones to start this thing going.

Q. Who suggested that they start this going?

A. Nobody in particular that I know of, except that this committee took it upon themselves.

Q. You say you were asked as to whether you wanted to take up this plan at a meeting?

A. Yes, at a general meeting.

Q. A general meeting of whom?

A. Of the employes.

Q. Did any company official address this meeting?

A. Yes.

Q. Which one?

A. Mr. William Davey.

Q. At that time the tin mill was part of the Canton Tin Plate Corporation?

A. Yes; it was the Canton Tin Plate Corporation.

Q. After you drafted this constitution—the committee drafted this constitution—there was submitted to the employes for their approval this constitution?

A. Yes, it was submitted to the employes.

Q. Did the employes vote in favor of the plan?

A. Well, according to the constitution we had a primary election in which we nominated members to constitute a committee to govern this plant.

Q. But was the plan submitted to a vote of the employes?

A. No, the plan itself was not.

Q. It was not?

A. Not that I know of. It might have been—I don't remember.

Q. You say certain men were voted on as representatives?

A. No; all the employes in the mill were given nomination blanks and asked to vote on them, and they could vote on any name they cared to.

Q. And after that did you hold an election?

A. Yes.

Q. How was that held?

A. The same way. A list of the nominees was posted up in the plant where the men could see the men who were to be voted for—twice the number of men to be voted for as were to be elected, I believe.

Q. And how many were elected?

A. Well, there were fourteen altogether, in all the departments.

Q. In all the departments?

A. Yes.

Q. That is, of the employes of the company, were they?

A. Yes.

Q. Were there any restrictions or qualifications as to their election?

A. Yes.

Q. Do you recall what they were?

A. Well, they had to be American citizens.

Q. Naturalized?

A. Well, naturalized or native born.

Q. Any other qualifications?

A. Well, I don't know, I know they had to be American citizens.

Q. You say ballots were passed out among the men?

A. Yes.

Q. How were they passed out?

A. Well, they were passed out by this committee that drafted this constitution. They were the nucleus around which this thing was started, there being no other committee.

Q. Well, how were the ballots voted; what did they do with the ballots—take them home with them?

A. Oh, no, they voted them right in the plant.

Q. Who supplied the ballot boxes?

A. The employes in the plant. We conducted the whole thing. The company had nothing to do with the ballots or the ballot boxes.

MR. HUNT: Will you kindly mark this, Mr. Reporter, as Board's Exhibit No. 18?

(The document referred to was thereupon marked for identification as "Board's Exhibit No. 18.")

BY MR. HUNT:

Q. I offer you this Board's Exhibit No. 18, Mr. Kirkland; will you tell us what it is?

A. That is the constitution and by-laws of the representative plan.

Q. And in what year was that passed?

A. I believe it was in 1933, when we started that thing, if I am not mistaken.

MR. HUNT: I would like to offer this in evidence, Mr. Examiner. (Handing document to Counsel for the Respondent.)

MR. DAY: No objection.

TRIAL EXAMINER LINDSAY: Board's Exhibit No. 18 is received in evidence.

(The document previously marked for identification "Board's Exhibit No. 18," was received in evidence.)

BY MR. HUNT:

Q. How did you receive one of those books?

A. Each one of our committee that was elected received one of those.

Q. From whom did you receive it?

A. We had them printed.

Q. You had them printed, yourself?

A. Well, no, they were printed by the committee (Laughter from audience).

TRIAL EXAMINER LINDSAY: I don't want that, back there.

BY MR. HUNT:

Q. How were those books passed out among the em-

ployes?

A. They were not passed among the employes, that I know of.

Q. You mean only the employes received those books?

A. As near as I know, anyone could have had one.

Q. You do not know whether they were passed out?

A. I do not know.

Q. As far as you know, they were not passed out among the men?

A. Not that I know of.

Q. Where did you hold your meetings?

A. We held our meeting in the company office.

Q. In the company office where?

A. Inside the company grounds. It is on the second floor of the general office, the Canton Tin Plate Corporation.

Q. Did you hold your meetings there until recently?

A. We held our meetings there until the 30th of April.

Q. The 30th of April when?

A. It was the 30th of April of this year, or until the Wagner Act forbade the meetings any more.

No, no, we held the meetings there until the strike was called. Excuse me.

Q. At the company office?

A. Yes, sir. I think May 8th was the last meeting we had in the company office.

Q. Did you receive any compensation for performing your duties as a company representative?

A. We did.

Q. What did you receive?

A. A dollar an hour.

Q. From whom did you receive that?

A. From the company, the Canton Tin Plate Corporation.

Q. Were there any dues?

A. No, sir.

Q. There were no dues?

A. No, sir.

Q. When did you hold the election for representative? How often do you hold the election for representative?

A. Once a year.

Q. When? What month?

A. In August.

Q. How were they conducted?

A. Well, as I said before, we had ballots printed and distributed among the employes for the primary, in which they gave the names of the persons they wanted to be nominated; and then those names were counted and the ones receiving the highest number of votes were the ones nominated.

Two weeks later the election was held for the election of those nominated candidates.

Q. How did you elect the officers of your organization?

A. When we had our first meeting at the beginning of the year we elected our officers at our first meeting.

Q. Were you an officer of this organization?

A. I was.

Q. What was your position?

A. Secretary.

Q. How long did you hold that position?

A. Ever since the plan was organized.

Q. In 1933?

A. Four years.

Q. You are still secretary of the Employes Representation Plan?

A. Yes, sir.

Q. What committees did you have? Did you have any standing committees to deal with problems?

A. Yes, we had three or four standing committees.

Q. Do you recall what they were?

A. I cannot give the names of them exactly. We had a committee on wages and we had a committee on sanitation,

and one on applications. I don't know what the names of them are. They are all in that book.

Q. Did these committees meet regularly?

A. These were just committees that were appointed from the whole committee. There were no separate meetings of those committees.

Q. They never held any meetings?

A. Not separately, no. There were no committee meetings held except on special cases when rate matters were brought up, when a committee would be appointed for that particular matter. That always met, as a whole—that is, that committee met as a whole.

Q. In other words, these committees were just appointed to deal with any particular problems that arose?

A. Yes.

Q. Did you ever meet with the employers' representatives?

A. Our plan called for a meeting with them every two months, every second month, and we did that with a representative body appointed from the company. For quite a long while we insisted that they meet every second month.

Q. How many were on this committee from the company?

A. Five or six of them.

Q. What sort of things did you discuss in those joint meetings?

A. They were just general discussions. If there was something in particular that they wanted brought up, or that we wanted brought up, we would discuss those things.

Q. Do you recall any votes being taken at those joint meetings?

A. No.

Q. You never voted?

A. No, sir; not at those meetings. They were just general discussion meetings. We had them in there just for that purpose.

Q. When you say "general discussion meetings," you mean discussions concerning what?

A. Discussions concerning the working conditions, the work, and other things like that. That was a part of the plan, and we carried out that part of it. I really don't think it was absolutely necessary for that committee to meet every two months, but they did. We asked them to.

Q. They never settled anything? Did they ever settle anything by vote?

A. No.

Q. Or did they ever settle anything in any other way?

A. No, it was just a discussion.

Q. Just a discussion or just a talk?

A. Yes, sir.

Q. Were you paid also for attending those meetings?

A. Those were our regular meetings. They were at our regular meetings. Not at any special meetings did they ever call those fellows in; it was at our regular meetings every second month.

Q. And no votes were being taken at those meetings?

A. No, sir.

Q. What sort of problems did you take up at the other meetings, the meetings when you just met alone?

A. We had asked all of the men in the employ if they had any grievances to present them to the committee in writing so that we could take them up and appoint committees to meet with the management to have them settled.

Q. How did you ask the men to do this?

A. To write their grievances on paper, and sign it, and give it to us—any one of the committee.

Q. How did you tell the men in the plant to write their grievances?

A. We put up a notice to the effect that any of the men in the various departments that had any grievances that they could present them to the committee without any fear of any interference on the part of the company, that

they need not be afraid of their jobs in any way, that there would be no danger of their signing their names to any grievances they wished to present.

Q. Why did you tell them they need not be afraid of the company?

A. You know how it is, or anybody knows how it is between the company and the employes. There are men who have an idea that anything they do for their own benefit may be detrimental to their own good sometimes, and you have to convince them that nothing like that will occur before they will agree to do things like that.

Q. At these regular meetings of your Representation Body, did anybody else attend these meetings—that is, anybody from the management apart from the management representatives?

A. Except when we would call Mr. Davey, either Jim or Sam Davey. We would call them in sometimes and settle a grievance there without appointing a committee. If either one of them would happen to be around the plant we would call them into the meeting and have it settled there rather than appointing a committee to confer with them perhaps the following week.

Q. What do you mean by "settlement"?

A. Settle the disputes. When we had a grievance to settle on something concerning wages or hours, or conditions of work, we always appointed a committee to meet with the management the following week to talk over those grievances and make some sort of a settlement that would be satisfactory to both the management and the employes.

Q. Do you recall any particular matter of importance that you settled in this manner?

A. Quite a good many.

Q. Tell us one.

A. One was wages at the cold rolls. There was a grievance there. The men thought they were not getting enough. We took it up with the company and the company

adjusted it very amiably to themselves and to the men of the cold rolls. That was one. That was quite apart.

Q. When was that?

A. It might have been in 1934, or something like that.

Q. Since last August, do you recall any similar matter of importance?

A. Well, yes.

Q. What is it?

A. There was a matter that we brought up with the Republic. Our hourly men were receiving less money than in some of the other departments of the Republic, and they asked us to take it up with the Republic officials to see whether we could not have those wages adjusted with the wages of the other departments of the Republic. And they very agreeably made the change and brought their wages up even with the wages of the men in the other departments.

Q. Do you recall any other instances last year?

A. I cannot think of anything now.

Q. That is the only time you remember taking anything up of particular importance since Republic has been in there?

A. Yes, anything of any great importance at all. There were a few minor things that were brought up, but I can't recall now.

Q. That is the only thing you can recall?

A. That is about the only thing I can think of now.

Q. As secretary, did you keep minutes of all these meetings?

A. I did.

Q. Were these minutes distributed among the representatives?

A. Well, the minutes were read at each one of the meetings. They were open for anybody to look at.

Q. Were any copies made of them?

A. There were no copies distributed in the mills—that is, no copies were made and tacked up.

Q. No copies were put on the bulletin board?

A. No, sir.

Q. No copies were distributed among the representatives?

A. Among the representatives?

Q. Yes.

A. No, sir. The books were always open for inspection to anybody who wanted to see them.

Q. But unless somebody asked to see them, there was no other way of seeing the minutes?

A. No. Nobody ever asked to see them. If they had made a request we could easily enough have had them put up on the board.

Q. But they never were, during the whole four years you were secretary?

A. No, sir.

Q. Did you ever have any general membership meetings under this Employes Representation Plan?

A. I don't know what you mean.

Q. Did you ever have any meetings of all the men who had signed up as members of this Employes Representation Plan?

A. We have had all of the members there many, many times. Do you mean members of the committee?

Q. No, not of the committee, but meetings of all the employes in the plant who had signed membership cards?

A. We have never had any membership cards signed.

Q. You did not?

A. No, not in our plant.

Q. Just how did you know they were members? How did you know who you were representing if you did not have any membership cards?

A. All of our employes knew of our plan, and the

vast majority of them approved of it by the vote they gave.

Q. Approved of what?

A. Of our representation plan—that is, of our committee representing them in collective bargaining.

Q. I asked you a little while ago if that plan itself had ever been actually voted upon? I mean if that plan itself was ever submitted to an actual vote of the employes?

A. The plan was never submitted for an actual vote—not that I know of.

Q. Then how did the employes approve of it?

A. By their voting. That is the only way I know.

Q. Voting for what?

A. For the committee.

Q. When was the last election held?

A. Last August.

Q. Do you know how many men voted?

A. About 61 percent.

Q. Sixty-one percent voted?

A. Yes.

Q. That is, 61 percent of the total employes?

A. Yes.

Q. How do you know that?

A. I have a record of it.

Q. Where?

A. I have it right here in my pocket, if you want it. I just found it the other day. There it is (indicating). That will give you an idea. I just found that offhand. That is the Nominations.

Q. For the nominations?

A. Yes, it is for the nominations.

Q. When are you supposed to have nominations?

A. It should be now.

Q. What do you mean by "now"?

A. It should have been the first of this month. Our fiscal year ends next Saturday.

Q. Did you have a vote within the last week or so?

A. No, there has not been any vote.

Q. Why not?

A. I don't know. I don't know why there has been no vote. There have been no plans made for the continuation of this committee.

Q. In other words, you failed to hold a primary election? Is that right?

A. That is right.

Q. Do you know why?

A. I haven't any idea. We never asked about it, in the first place.

Q. Never asked whom?

A. Never asked anybody; that is, never asked the officials whether or not they wanted to continue the plan.

Q. What officials?

A. The officials of the Republic Steel Corporation.

Q. You say you have not asked them whether they want the plan continued or not?

A. No, sir.

Q. Do you intend to ask them whether or not they want to continue the plan?

A. If we had been continuing the plan for the last four years under the company plan we would naturally want to know whether they want it continued, wouldn't they? Here is the idea. We should have discontinued the plan on the 30th of April, but we continued it without any charge whatsoever, without any remuneration from the company, until the end of this fiscal year.

Q. Who will determine when and if an election will be held?

A. I don't know. I don't think there will be any.

Q. What is that?

A. I don't think there will be any, as far as that is

concerned. I don't know anything about that part of it. This plan was adopted under the Davey Company and it was continued by the Republic Steel Corporation until the end of this year. We know nothing of any plan that might be made after that time.

MR. HUNT: Will you please mark this Exhibit 19, for identification.

(The document referred to was thereupon marked for identification as "Board's Exhibit No. 19.")

BY MR. HUNT:

Q. I hand you Board's Exhibit No. 19, for identification. Will you please tell us what it is?

A. That is the minutes of May 8, 1937.

Q. Of what?

A. Of our committee meeting.

Q. Of the Employes Representation?

A. Yes.

Q. Is that your handwriting?

A. Yes, it is.

MR. HUNT: I would like to offer this in evidence. Is there any objection?

MR. DAY: No objection.

TRIAL EXAMINER LINDSAY: Board's Exhibit No. 19 is received in evidence.

(The document previously marked for identification "Board's Exhibit No. 19," was received in evidence.)

BY MR. HUNT:

Q. Mr. Kirkland, in these minutes of May 8, 1937, I notice the following three sentences:

"Mr. Morrow made a motion that the committee resign. The motion was seconded by Mr. Louies. After much discussion, for and against it, the motion was put to a vote. Three members voted for the motion, and six voted against it. The motion was lost."

Did Mr. Morrow speak in favor of this motion?

A. Yes, naturally.

Q. What did Mr. Morrow say?

A. Well, for one thing, because Mr. Wagner's Ac had been passed, we thought it was not necessary for th committee to function any longer; and, another thing, h did not think that we were getting anywhere with ou committee. Well, in fact, we were not doing anything. S he thought: What is the use of continuing our meetings— we might as well resign and get it over with.

Q. He said he did not think you were getting any where; did he say getting anywhere with whom, or wit what?

A. Well, there really was not much to do any more in the way of grievances, and so forth, and we really just went there, most of the time, and had our little forma meeting, and said our little piece, and went home again and nobody brought any grievances to us, and we fel there was not much use in continuing.

Q. How long had this state of affairs continued where you just met and talked over your little piece and went home?

A. Well, after the 30th of April, when the Wagner Act became effective, we thought it would be a good time t resign, and Mr. Davey asked us if we would not continue until the end of the year.

Q. Mr. Davey was present at that meeting?

A. No, but at another one, and he asked us to con tinue on, and we said we would.

Q. Did he say why he wanted you to continue on?

A. No—just to have somebody to take up any griev ances that might come up, until the end of the fiscal year.

Q. Now, you say you did not do much at these meet ings; how long had you been running along that way without doing very much?

A. Oh, perhaps for the last five or six meetings.

Q. Previous to this meeting?

A. No, we had continued our meetings every month.

Q. Well, previous to this meeting, how long had you been going along without doing very much of anything?

A. Oh, perhaps a couple of months.

Q. And, previous to that, how long had you been meeting without doing anything?

A. Well, there were some questions brought up about the openers, and the openers to the opening floor, and that was settled with Mr. Davey satisfactory to the men, and the special committee appointed to take that matter up with Mr. Davey, but there were not very many things brought up at our regular meeting.

Q. You say there were not very many things brought up?

A. No, nothing much that we needed particularly in that meeting. There would be some things brought up with the committee, individually; we had members of the committee on different turns in the mill, and if there were any things that came up they were taken up with the different members of the committee.

Q. Did they ever report to the committee?

A. Oh, yes.

Q. What sort of things?

A. Well, on the opening floor, one of the shear men went to Mr. Davey and had that matter settled, with the men on the shearing floor and the opening floor.

Q. You say Mr. Davey asked you to continue to the end of the fiscal year.

A. Yes.

Q. Was that the reason it was voted down?

A. Well, that is the reason I voted, and I presume that was the reason the rest of them voted that way, too.

Q. At Mr. Davey's request you voted that way, to continue to the end of the year?

A. Yes.

Q. Did Mr. Davey request anybody that way, in you presence?

A. Well, he did not request anybody, but three o them voted for and six of them voted against.

Q. When did the committee report that?

A. At the meeting before that.

Q. Will you look through here (indicating), and se if you can find Mr. Davey's request?

A. I cannot see it in here; perhaps it was not record ed. That is May, isn't it?

Q. Yes.

A. Well, it would be before that.

No, I cannot find it. I probably did not record it.

Q. You do not recall—or do you recall—that he mad such a request of the committee?

A. Oh, yes, I remember it quite well.

Q. Was it a request made before the whole commit tee?

A. Oh, yes, he never met with any one of the com mittee; he always met with the committee as a whole ex cept that we had a special committee appointed for griev ances, maybe.

Q. Was it at the meeting before, or two months be fore, or eight months before, or what?

A. Well, I think it was. Mr. Sam Davey met wit our committee at this time.

Q. When—on the 10th of April?

A. In the conversation at that time—I cannot say fo sure whether it was at that particular time, but in our con versation with him, we told him we had thought of resign ing, but he asked us if we would not continue until th end of the year. We probably did not record that par ticular conversation.

Q. You mentioned April 30th. You mentioned tha as the time that the Wagner Act was passed.

A. I mean the date it became effective.

Q. Did you mean the date it became effective or the date the Supreme Court sustained its constitutionality?

A. That may be.

Q. Isn't there some difference?

A. There may be.

Q. In your minutes of May 8th, you also have this statement: "Mr. Sam Davey introduced Frank Geltz, Chairman, and Mr. Cox, vice-chairman. Mr. Geltz presented a plan that had been worked out by the representative body, a plan called the Employes Association, and it was given to each member, and each part was discussed and explained by Mr. Geltz. After the retirements of Mr. Geltz and Mr. Cox, our committee met and considered the plan, at the call of the president."

Will you describe, as fully as you can, what took place at this meeting—who were present?

A. At this meeting?

Q. Yes.

A. Mr. Geltz and Mr. Cox.

Q. Mr. Sam Davey was present?

A. Mr. Sam Davey was present before this.

Q. Well—

A. (Interposing) He had been present with our committee, before this, and when Mr. Geltz began to talk and explain the plan, or before that, Mr. Davey retired.

Q. But Mr. Davey did introduce them to you?

A. Oh, yes, he wanted to know if we wanted to meet them, and we said yes, and they happened to be downstairs, and he brought them up.

Q. Were there any other officials of the company present before Mr. Geltz began to explain?

A. Mr. Coldrin, and Mr. Lohnies.

Q. Did Mr. Coldrin or Mr. Lohnies say anything to you?

A. Well, they just came there and gave us a general greeting, or talk.

Q. Did either of them give you a general greeting, or talk?

A. Just a little talk about conditions.

Q. Who gave the talk, Mr. Lohnies or Mr. Coldrin?

A. None of them, in particular. They both greeted us, when they came in. Mr. Coldrin did not say anything when he came in, but they just greeted us, like they would on other occasions, just to say "How do you do"?

Q. Mr. Davey was with them at that time?

A. We had asked Mr. Davey to come in.

Q. As I understand it, before Mr. Geltz began to explain this, Mr. Lohnies and Mr. Coldrin, from the company, and Mr. Sam Davey, were all present?

A. No, they retired before Mr. Geltz started.

Q. But, they were all with you before Mr. Geltz started?

A. Yes, they just dropped in—I don't think they had been there five minutes before that. And we suspended our business to allow those men to say what they had to say.

Q. Do you know whether the Employes Representation Association had any membership cards?

A. I am not sure; I heard they had.

Q. Who told you they had?

A. Well, they said they had.

Q. Who?

A. The committee?

Q. What committee?

A. Well, this general committee of which Mr. Geltz was the chairman. That is all I know about that committee.

Q. Did Mr. Geltz tell you they had any membership cards for their association?

A. Yes, he did.

Q. Did he tell you what kind of cards they were?

A. If I remember rightly, they were white cards. I

am not sure about that—I think it is a white card. That is, it was an application card for a man to sign.

Q. Did he tell you why the name had been changed from the Representative Plan to Association?

A. He did explain that, but it has been some time back, and I cannot remember what he did say concerning the change to "Association."

Q. At the time he explained this, were there any members signed up in this association, that you know of?

A. I do not know of any, except that they said they were.

Q. Who is "they"—Mr. Geltz

A. When I say "they," I mean this committee, Mr. Davey and Mr. Geltz.

Q. Did he say who had signed up?

A. I cannot say; they said they had got a number from the Allied Plant.

MR. HUNT: Mr. Reporter, will you kindly mark this as Board's Exhibit No. 20, for identification?

(The document was thereupon marked for identification as "Board's Exhibit No. 20.")

BY MR. HUNT:

Q. I give you Board's Exhibit No. 20; will you please identify it?

A. Well, I have seen one of them. They were given to us to distribute.

Q. Did you distribute cards like these?

A. Yes, in our plant.

MR. HUNT: I would like to introduce this card in evidence, if I may (handing card to Counsel).

MR. DAY: No objection.

TRIAL EXAMINER LINDSAY: Board's Exhibit No. 20 is received in evidence.

(The document previously marked for identifica-

tion "Board's Exhibit No. 20," was received in evidence.)

BY MR. HUNT:

Q. It reads, in part: "I hereby subscribe blank dollars to help defray legal fees and expenses incurred by reason of employes' petition to Common Pleas Court for restraining order and injunction with respect to the C. I. O., with respect to their unlawful interference going to and from our work."

And, in the lefthand corner, "The date," and in the righthand corner, "Signed."

Where did you first see these cards?

A. They were left on the desk of Mr. Gene Thomas.

Q. Who is Mr. Gene Thomas?

A. Superintendent in our plant.

Q. And you distributed these, yourself?

A. I did; I just handed them out to the men. That is, I did not distribute all of them, but distributed them on my turn, and the other committee men distributed them in their turns.

Q. But you distributed them for their signatures?

A. I just handed them to them. Did not ask them to sign them. I just said, "This is self-explanatory; you can do what you please." I made no explanation whatever—just gave it to them.

Q. Did you explain to them what these were for?

A. No, because we knew very little about it, ourselves. It was not explained to us what it was for. The cards were just given to us.

Q. You say you knew very little about it; did you know about the Employes' petition to the Common Pleas Court?

A. All we knew was what we heard.

Q. From where?

A. Just general talk; I asked about it when the cards

were first mentioned, and nobody seemed to know anything about it at that time.

Q. I am asking you now about this restraining order and injunction; you knew what that was about, did you not?

A. I did not know what it was.

Q. You did not know it was an order brought here in Canton?

A. No.

Q. You did not?

A. I knew absolutely nothing. That injunction is an employes' injunction. I didn't know about that.

Q. Did you know about an injunction brought against the C. I. O.?

A. Yes, I did, because I happened to be at one day's trial, or one morning's trial. That was a permanent injunction.

Q. Do you know whether or not that was an employes' injunction?

A. I do not.

MR. HUNT: That is all.

Cross Examination

BY MR. DAY:

Q. Mr. Kirkland, did you say that you are still with the Republic Steel Corporation?

A. Yes.

Q. What did you say your occupation is?

A. Roller.

Q. What plant?

A. Canton Tin Plate.

Q. That is located here in Canton?

A. Yes.

Q. And that plant has been in Trenton many years? You know that?

A. About 36 years.

Q. You started with Republic about 30 years ago? I mean you started working in that plant about 30 years ago?

A. Not in the Canton Tin Plate.

Q. Where did you start?

A. I started with the Stark Rolling Mill Company in 1907. And the Republic, of course, bought that after the Central Steel had bought it. Republic bought it from Central Steel, and I continued to work for them from 1907 to the present time.

Q. You started out with the old Stark Rolling Mill?

A. Yes.

Q. And when Central bought it you kept right on there?

A. Yes.

Q. And then when Central Steel—

A. Republic bought it from Central Steel.

Q. And you kept right on when Republic bought it from Central Steel?

A. Yes.

Q. You said something about the Daveys.

A. Yes.

Q. Was that the family that had quite a number of brothers in the steel business?

A. Yes.

Q. Five or six brothers?

A. Yes.

Q. You say that in 1933 that this Canton Tin Plate plant belonged to the Daveys?

A. Yes.

Q. They ran the Canton Tin Plate Company?

A. They owned it.

Q. I notice this book that was offered in evidence says, "Canton Tin Plate Corporation."

A. Yes.

Q. That was the Davey Company, wasn't it?

A. Yes.

Q. At that time the company was not connected with Republic Steel Corporation in any way?

A. No, sir.

Q. Or with Central Steel?

A. No, sir.

Q. Or United Alloy?

A. It was an independent plant.

Q. And it was at that time, as I understood you, that this Employes Representation Plan was commenced? Is that right?

A. It was.

Q. When did Republic acquire the Canton Tin Plate plant?

A. I think it was along about the 28th or 30th of June, 1936.

Q. Then there was a period of about 3 years, then, when the Employes Plan was in effect?

A. Yes.

Q. Before the Republic Steel Corporation came into the picture at all?

A. Yes.

Q. After Republic Steel Corporation came into the picture, did some of the Daveys stay with Republic, and are some of the Daveys with Republic now?

A. They are. Mr. Sam Davey and Mr. John Davey remained.

Q. They are still with Republic?

A. Yes, sir.

Q. Are they connected with the Canton Tin Plate?

A. Sam is the manager of the Canton Tin Plate. Jim is at the South Plant.

Q. Right now for Republic?

A. Yes.

Q. So what you have described in answer to questions

put to you by Mr. Hunt as to the organization of the Employes Representation plan, and so on, was a couple of years before Republic Steel Corporation came into the picture at all?

A. Yes, sir.

Q. And this (indicating) is one of the constitutions of the old plan under the Davey regime? Is that right?

A. It is.

Q. And I think you said that you had one of these books as a member of the committee?

A. Yes, sir.

Q. And did the other members of the committee have the same kind of books?

A. Yes, sir.

Q. Do you know whether or not books of this kind containing the constitution, or the plan, itself, was available to anybody who wanted them?

A. Yes, sir.

Q. That i. .nybody at work at the Canton Tin Plate, if he wanted any one of these books could have obtained one?

A. Yes, sir. And we did give them to some of the men who are not members—that is, some who had asked for them. We had several we could give to them if they had wanted them.

Q. How was this plan conducted in the first instance? By the men? Perhaps you would better turn around so the Trial Examiner can hear you.

A. Really, I don't know. I don't know just how it was. I know that that committee that was the Committee of the Mutual Benefit Society are the ones who drafted this constitution and presented it to us for our consideration.

Q. What was the Mutual Benefit Society?

A. That was a benefit society that we had within our own plant for benefits of sickness and accident and death that was not covered by the State Compensation.

Q. Was that an employes' organization?

A. Yes, sir.

Q. Strictly?

A. Yes.

Q. And it had a committee?

A. Yes.

Q. And this plan of representation was prepared by that committee? Is that right?

A. Yes, sir.

Q. Were you a member of that committee?

A. No, sir.

Q. How many were on that committee? Do you know that?

A. I don't know. It was probably eight or ten.

Q. Then, just what did that committee have to do with getting up this constitution, or this plan, rather?

A. It just considered that that committee was as good as any other committee to draft the constitution and by-laws. There had to be a start somewhere.

Q. After that committee had drafted the constitution and by-laws, then how soon after that was the election held?

A. Well, I don't know just now. When that constitution and by-laws was presented, I think it was some time in June, probably.

Q. In June of 1933?

A. Yes, sir; in August is when we had our first election.

Q. Have you any recollection as to how the plan was presented to the men?

A. Really, I do not.

Q. Was it presented to them by any method other than the election, if you know?

A. I couldn't say that.

Q. You don't remember about that?

A. I don't remember.

Q. I think you said that there was a primary election first.

A. Yes, sir.

Q. A nominating election?

A. Yes, sir.

Q. And then how many men were picked out at the nominating election?

A. Twice as many as were needed to be elected. That would be twenty-eight. And fourteen were elected.

Q. Then you elected fourteen?

A. Yes.

Q. Was that for the whole Tin Plate?

A. Yes, that was for the whole Tin Plate, and every department.

Q. How many men were working in the whole Tin Plate in every department at that time?

A. I believe about seven hundred and something. Maybe 720 or 730.

Q. And did those 720 or 730 nominate fourteen men and then elect seven men?

A. They wrote in their names in the nomination.

Q. Do you know how many men voted in the first election—that is, the nominating election?

A. No, sir.

Q. Have you any figures to show that?

A. No, I haven't any figures to show that. There probably are figures but I do not have them. I just happened to have that last figure. That was the nominating for the last election.

Q. That was for the last election?

A. Yes, that was for the nomination.

Q. Did substantially all of the men vote, or did 75 percent to 80 percent, or what would you say?

A. I remember at the last election before this that there were 81 percent. I remember that.

Q. While we are on the subject, Mr. Kirkland, you

say "Before this." And you refer to an election in August, 1936? Is that right?

A. Yes.

Q. And then about 61 percent voted?

A. That is right.

Q. And you had an election once a year?

A. Yes.

Q. And your recollection would be that in August of 1935 there were about 81 percent?

A. Yes, sir.

Q. Can you give us an idea as to how many there were in August, 1934?

A. I cannot give you any idea as to the percentages in any of the years.

Q. Was it as high as 81 percent, or 80 percent, in 1934?

A. It ran pretty high.

Q. How about 1933?

A. 1933 was the first.

Q. 1933 was the first year?

A. Yes, 1933 was the first year, and it ran pretty good. Of course, you must understand the plan was new and probably quite a number of them did not vote on them at all.

MR. DAY: If there is no objection, I will give this back to you, Mr. Kirkland, unless Counsel wants it.

It has not been marked, Your Honor.

BY MR. DAY:

Q. As to the election itself, did the men conduct the election?

A. Yes, the men conducted the election exclusively. There were no company people connected with it in one way or the other.

Q. Did the company print the ballots or do any of that?

A. Yes, the company stood the expense of printing the ballots.

Q. What other expenses did the company stand, if you know?

A. That is all.

Q. Just printing the ballots?

A. That was all there was.

Q. What kind of election machinery did you have? What kind of booths did you have? Where did you vote?

A. Right in the plant. We gave them the ballots and they came out and put them into the ballot box.

Q. There was a regular ballot box?

A. Yes, a regular square ballot box.

Q. Was there a fair opportunity for the men to vote for whomever they wanted to vote?

A. I think it was as fair as you could find in any political election, or probably fairer.

Q. Did the men do their own counting?

A. We had a committee of men who did the counting.

Q. And the company had nothing whatever to do with that? Is that right?

A. We had one company man in. Mr. G. Thomas was in on the counting of it; that is, he was in to oversee it. He did not do any of the counting. We had five or six tellers on the counting of the ballots.

Q. Please tell the Court whether or not it is a fact the first election that was held in August, 1933, was held by the men and conducted by the men, with the company out of it?

A. Yes, sir.

Q. Is that true also of the election in 1936?

A. It was true of all of the elections.

Q. That would include 1933, 1934, 1935, and 1936? Is that right?

A. Yes, that is right.

Q. These men who were selected were called what?

A. Employe representatives.

Q. Were you one of them?

A. I was.

Q. After they were elected, did they start to function?

A. Immediately.

Q. And they would sometimes meet with the company, would they?

A. Once every two months.

Q. How often did your committee meet?

A. Every second week of each month.

Q. And, as I understand it, the committee was composed of the men who were elected? Is that right?

A. Yes, sir.

Q. Once every two months?

A. No. The committee met once a month.

Q. Once a month?

A. Every second week of the month; but every two months we had a meeting of the committee appointed by the management to come in with us.

Q. That was every second month?

A. Yes.

Q. And you discussed various matters with the committee from the management?

A. Yes.

Q. That went along from August, 1933, up until quite recently, didn't it?

A. Well, yes.

Q. Did it work all right?

A. I think it did. We never had any complaints of our committee, that I know of.

Q. Did the plan that the men had there work out all right with the company?

A. It surely did.

Q. Throughout this period of time?

A. Yes, sir.

Q. And did it work out all right with the company up until about the time of the strike?

MR. HUNT: I object.

MR. DAY: I think that is a fair question.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception.

BY MR. DAY:

Q. What is your answer?

A. Pretty much so; yes, sir. There were very few minor differences.

Q. I imagine there were differences from time to time?

A. Yes, there were.

Q. Were they worked out?

A. Well, they were not always worked out, no.

Q. What kind of differences were they?

A. There was just one particular incident that did not work out satisfactorily to the men. I believe it was in 1935 when there was a raise given to the men. The men receiving 82.5 cents an hour were to receive a 7 percent raise, and men receiving less than 82 cents were to receive 5½ cents an hour raise. The 5½ cents an hour proposition worked out all right, but when it came to our roughers and patchers it seemed that the rate they gave was a little too high for the roughers and patchers and they objected to it. They thought they ought to have gotten a little better raise than they did. They took it up with the company, and they went to work with their engineering department, and figured it out, and they said they thought the adjustment was perfectly satisfactory. But that is as far as we got.

Q. That was back in 1935?

A. I believe it was.

Q. Outside of that it worked along all right?

A. It did very good.

Q. Then, I want you to tell the Court whether or not this Representation Plan worked out all right as between the company and the men until the C. I. O. came out into this district?

MR. HUNT: I object to the question. He is testifying to something entirely out of his knowledge. If he is asking his opinion, that is another matter.

MR. DAY: I am asking his opinion.

THE WITNESS: It would have to be an opinion because I couldn't know definitely.

BY MR. DAY:

Q. What is your answer?

A. I know when the C. I. O. became very active, of course, there were some differences there, and there naturally would be.

Q. To your knowledge, Mr. Kirkland, when did the C. I. O. come into this territory? Approximately when?

A. Well, really, I don't know. It slipped in so easily that it was there before I knew it.

Q. Well, it was some time in 1936, was it?

A. Well, probably. Yes, it was in 1936.

Q. You were asked about a grievance. How were grievances handled under the plan you have been telling us about?

A. Well, any department that had a grievance would present that grievance in writing with the persons who had the grievance sign their names to it as an individual or as a committee.

Q. And they would present it to whom?

A. To our committee, to any one of our committee men, and that committee man then would bring it before our body at our regular meeting, and we would discuss it, a committee would be appointed to meet with the management, and we would try to get the matter ironed out.

Q. During this period of time were some grievances handled in that manner?

A. In fact, all of them were handled that way. All of the grievances were handled in that way.

Q. You said something about when the Wagner Act became effective, and I think you also said you had in mind when the Supreme Court held the Wagner Act constitutional.

A. I mean on the 30th of April.

Q. The 30th of April of this year?

A. Yes, sir.

Q. Was there any change made in what the company did after that time?

A. Yes, sir.

Q. What was it? Tell the Court about that.

A. Well, the company ceased to pay the committee. They said it was not constitutional and was unlawful to pay the committee after that time, and that was the end of that.

Q. And you did not hold any election after that time, did you?

A. No, no election. Our election would not be until this August.

Q. What was the company paying the committee prior to April 30th?

A. A dollar an hour.

Q. That was a dollar an hour for time spent in what manner?

A. For time spent in our regular meetings and time spent in our special committee meetings when we went to the company with grievances.

Q. And that dollar an hour was paid to the members of your committee?

A. Yes.

Q. And was it paid in addition to the money made on company work at the plant?

A. No, sir. If we were called from our work at the plant then somebody else received the money we would

have received at the plant, and we got just a dollar an hour.

Q. You got a dollar an hour for the time you spent in conferring with the company?

A. Yes, sir.

Q. For the time you would spend on your own committee meetings, did you receive any money?

A. At our regular meetings.

Q. You got a dollar an hour for that?

A. Yes.

Q. Do I understand that if you were called from your regular work to attend the meetings, then you got a dollar an hour for the time you spent at the meeting; is that right?

A. Yes, sir.

Q. Do I understand you correctly to say that when you were called upon to meet that somebody else took your jobs?

A. Yes, and received the money for it.

Q. And they would receive the money for it?

A. Yes.

Q. You were asked about a meeting on May 8th, I think it was.

A. Yes.

Q. That was May 8, 1937. And Mr. Hunt read in a part of the minutes. I notice you reported that a dance that was held was a great success.

A. Yes.

Q. Did the committee have to do with affairs of that kind?

A. Yes, the committee had all to do with it. The committee paid the expenses of it. The company had absolutely nothing to do with it.

Q. Mr. Morrow made a motion that the committee resign, and the motion was seconded by Mr. Louies. I understand that was voted down. Is that right?

A. Yes.

Q. Then the committee did not resign at that time?

A. No, sir.

Q. And no election has been held since then?

A. No, sir.

Q. You were asked about Mr. Davey appearing at one of these meetings and asking the committee to stay on until the end of the year.

A. Yes, sir.

Q. Was that Mr. Sam Davey?

A. Yes, that was Mr. Sam Davey.

Q. And you were asked whether or not there was any reference to that fact in the minutes—that is, whether the minutes showed Mr. Davey had been there.

A. The minutes showed Mr. Davey was there but it does not show that he made that request.

Q. Did you make the minutes?

A. Yes.

Q. Did you have any object in not showing Mr. Davey was there and made the request?

A. I would not have. There were a lot of things that went on during the hearing that I did not put down in the minutes.

Q. When Mr. Hunt asked you what took place you told him just now that Mr. Davey made that request?

A. Yes, sir.

Q. Did Mr. Davey say why he made that request?

A. He just said he would like to have us continue on because our committee had done a good work in the way of adjusting grievances between the men and the company, and he asked us to kindly continue on to the end of our fiscal year just for that same purpose.

Q. Was your committee the only committee that was acting in connection with grievances and things of that kind at that time?

A. That is right.

Q. And had it been for three or four years?

A. Yes, since the beginning.

Q. Back in 1933?

A. Yes, sir.

Q. You were asked about a green card, Board Exhibit No. 20, about subscribing money to defray the legal expenses in connection with a lawsuit. You have found out since, if you did not know at that time, that that was a lawsuit brought by the men against the Steel Workers Organizing Committee and C. I. O.?

A. Yes, sir.

Q. Against the strikers?

A. Yes.

Q. And tried in the Court of Stark County?

A. Yes.

MR. DAY: And I will say we have offered in evidence down before the Labor Board the permanent judgment and injunction that was granted.

BY MR. DAY:

Q. And was that handed around to the men? Is that right?

A. Yes, sir.

Q. And they were asked to subscribe to help defray the legal expenses?

A. They were only asked. They were not even asked; they were just given this and I told everyone I gave it to that the card was self-explanatory.

Q. Nobody was asked or solicited to contribute?

A. No, sir; nobody was asked or solicited to contribute.

Q. But they were handed around?

A. Yes, that is right.

Q. And if they wanted to give it was all right?

A. Yes.

Q. And if they did not want to give, it was all right?

A. That is it, exactly.

MR. DAY: I think that is all.

Redirect Examination

BY MR. HUNT:

Q. You say you were paid for the time spent in attendance at meetings of this organization?

A. Yes, we were.

Q. When these meetings were held outside of your regular working hours were [you] paid by separate check by the company, or was that included in your pay check?

A. No, that was a separate check.

Q. You were paid by separate check by the company?

A. Yes.

Q. For attendance at meetings outside of hours?

A. Yes, sir.

Q. Your committee or your organization arrived at some decision and took it up with the management, and the management refused, was there any right of appeal to the management?

A. I just don't get your question.

Q. If the company refused to grant a request of your committee, what could you do?

A. We could carry our grievances as far as the United States Supreme Court, if necessary.

Q. How many times did you do that?

A. We never thought it was necessary to do it in any time.

Q. In other words, when the company did refuse that was the end of it so far as you were concerned?

A. Yes, sir.

Q. When the men voted at these elections, did they vote during their working hours?

A. They did.

Q. Did their wages go on just the same while they were voting?

A. Surely. It took only a minute or two to vote.

Q. Did you supervise any of these elections, or take any part?

A. I did.

Q. How long did it take these elections to run off?

A. A whole day.

Q. A whole day?

A. For three turns, starting with the three 8-hour turns, for 24 hours a day.

Q. And the company paid you for your services in helping in that election?

A. Yes, sir.

Q. Were these elections always held on company property?

A. They were.

Q. And on company time? Were they held on company time?

A. We, of the committee, would lose our regular time and we would have to be paid somewhere.

Q. The men voted while they were at work?

A. Yes, the men voted while they were at work. It took only a minute or two to put those votes into the box.

Q. I think you said at one time there was 81 percent voted in the election for representatives?

A. Yes.

Q. And the last election it was 61 percent?

A. I believe so. That was the nominations.

Q. So far as you know, Mr. Kirkland, when did the C. I. O. start organizing in the tin mill?

A. Really, I don't know. I know it was some time in 1936. I don't know just when it was.

Q. When did it first come to your attention?

A. It just slipped in.

Q. When did it first come to your attention?

A. I can't give you any date at all. I really wouldn't know.

Q. When did you first know of the C. I. O. When did you first definitely know, that you can remember?

A. I first knew of the C. I. O. before I knew there were any members in our company. I don't know just when that was.

Q. When do you recall definitely knowing?

A. I don't know. I suppose it would be along about the middle of the month or about the middle of the year, 1936, or somewhere along in there.

Q. By the middle of the year, do you mean August or September?

A. It may have been before then. It might have been before that time. I wouldn't be able to state definitely. I would hear of it every now and then. I would hear that the C. I. O. was starting to organize the men. Of course, I never keep track of any date or any definite period.

Q. In your opinion, did the C. I. O. ever at any time ever represent or have control of a majority of the men in the tin mill?

A. They claimed they did; that is all I know.

Q. What is your opinion?

A. My opinion is that they had the majority. That is just my opinion. I have no definite data on that at all.

Q. That was after the last election?

A. That was after the last election.

MR. HUNT: That is all.

Recross Examination

BY MR. DAY:

Q. There was one thing I did not ask you about. This minute of the meeting of May 8, 1937, refers to some plan presented by a Mr. Frank Geltz. Was any action ever taken on that?

A. None.

Q. That never amounted to anything?

A. Not so far as we were concerned, it wasn't.

Q. Your statement that at some time you thought the C. I. O. had a majority is just based upon your own opinion?

A. Yes. I have no definite facts on it at all.

BY TRIAL EXAMINER LINDSAY:

Q. Who is Mr. Geltz?

A. He is an employe of the Republic Steel Corporation. That is all I know.

Q. Is he an official of the company?

A. No, he is one of the employes.

Q. Who is Mr. Thomas?

A. G. Thomas is our assistant superintendent of the tin mill.

Q. You said that at the election Gene Thomas was there as a supervisor?

A. He just sat in. He didn't do any of the counting of the votes.

Q. But he sat in and saw that the election was conducted the way it should be? Is that the idea?

A. That is the idea exactly.

Q. Would you classify G. Thomas as an official of the company?

A. Well, he is one of the foremen.

Q. How much money per hour were you making in 1933?

A. Well, we were not paid by the hour.

Q. You were paid a salary?

A. No, sir; we are tonnage people and our salaries varied very much.

Q. About how much was it in April per hour?

A. I don't know. About $1.50, or maybe a little more.

Q. How many hours a day would you work?

A. Eight.

Q. When you had these meetings every other month with the company, who called the meeting?

A. I did.

Q. You called it at whose suggestion?

A. At the suggestion of the president.

Q. The president of what?

A. Of our company.

Q. How did you get word to the officials of the company that you were going to meet?

A. The officials of the company had nothing to do with it.

Q. I thought you said on your direct examination that at those meetings every second month you met with the officials of the company?

A. That is in our constitution. They knew they were to be.

Q. Then the officials of the company did have something to do with the meeting? Isn't that right?

A. Only as a part of our constitution.

Q. They were at the meeting?

A. Yes, they were.

Q. They would have a right to make motions? Isn't that right?

A. Not that I know of.

Q. Would they have any right to make suggestions to your committee?

A. Yes.

Q. And they did that?

A. That is what we had them there for.

Q. And you would usually follow those suggestions?

A. If they were to our benefit we did; yes, sir.

Q. And in many cases you did follow their suggestions?

A. Naturally we would; yes, sir; because most all of the suggestions that the Daveys gave us were good ones.

Q. And both of the Daveys who came on into the new

corporation are officials of the Republic Steel Corporation? Is that right?

A. Yes, sir.

Q. So it was a complete continuation of one corporation up to the time that it was included in the new corporation, or bought by the new corporation and carried right on straight through? Isn't that right?

A. Except they did not meet every second month.

Q. I am not talking about the meeting. I am talking about the company.

A. It was just a continuation; yes, sir.

Q. When the new company was formed, or, rather, when it took over the other steel corporation, the Republic Steel Corporation went right on and carried right on with this particular union? Isn't that right?

A. Yes.

Q. Which you call the company union?

A. Yes. It was never changed.

Q. That was never changed?

A. It was never changed.

Q. Some of the officials of the old corporation are now officials of the Republic Steel Corporation?

A. Yes, sir.

Q. And the Daveys, both Sam and William, took an active part in the union activities, didn't they, and made suggestions?

A. Not William.

Q. Which ones did?

A. Sam and Jim. William left altogether and went to Cleveland.

Q. Sam and Jim came on with the new corporation?

A. Yes, sir.

Q. So that the company union, as you call it, continued right on into the Republic Steel Corporation?

A It did.

Q. You did not resign as a member of that committee?

You are still active; isn't that right?

A. Yes, sir.

Q. Who was it who asked you to remain on the committee after you decided that you wished to resign?

A. Mr. Sam Davey.

MR. TRIAL EXAMINER LINDSAY: That is all.

MR. DAY: I want to ask one question to try to clear up something. I don't know whether Your Honor had in mind that the Canton Tin Plate Mill continued on after it became Republic.

TRIAL EXAMINER LINDSAY: No; it was taken over by Republic.

MR. DAY: It was purchased by Republic.

TRIAL EXAMINER LINDSAY: I understand that.

MR. DAY: I thought what you had in mind was that the Representation Plan kept on going.

TRIAL EXAMINER LINDSAY: The union to which he belonged did keep going right straight along.

MR. DAY: It kept going on. But if you had in mind that the transactions between the Canton Sheet Tin Plate and Republic was one by which the Canton Sheet Tin Plate kept on going, of course, it wasn't that.

TRIAL EXAMINER LINDSAY: It became a part of Republic.

MR. DAY: The Republic bought it.

Redirect Examination

BY MR. HUNT:

Q. Your organization had an agreement with Davey brothers when the Canton Tin Plate Corporation was in existence?

A. Plenty of them.

Q. Did you have an agreement such as the Amalgamated Tin, Steel, and Iron Association would have?

A. I don't understand the question. You asked about an agreement?

Q. Yes.

A. Yes, we had an agreement. We signed an agreement every year.

Q. You had a signed agreement covering your wage schedule?

A. Yes.

Q. What else?

A. Our wages and conditions of work and all of those things that are contained in the Amalgamated Association agreement, except that they did not recognize the union as the bargaining agency.

Q. Did the Canton Tin Plate Company recognize your organization as a bargaining unit?

A. Yes.

Q. It did?

A. Yes.

Q. When the Republic Corporation came in did you have such an agreement with them?

A. No.

Q. The Republic Steel Corporation did not recognize even your organization for bargaining purposes?

A. Oh, yes, they recognized our representative committee as the bargaining agent, yes.

Q. They would not enter into such an agreement as the Canton Tin Plate Corporation did?

A. No.

Q. Were you ever told why not?

A. We were only told that they never signed any agreements with anybody. That is all we were told.

Q. The Republic never signed any agreement with anybody?

A. No.

Q. Do you mean agreements of the sort that the Canton Tin Plate Corporation had signed?

A. Yes.

Q. The parties were different but that agreement was the same as the proposed agreement by the Amalgamated Association of Steel, Tin, and Iron Workers?

A. The same agreement with the exception of the bargaining unit.

Q. Just to make sure and to repeat, the Canton Tin Plate Corporation did sign one of these agreements?

A. Yes.

Q. And the Republic Steel Corporation refused to sign an agreement?

A. Yes.

Q. Did you request any of the officials of the Republic Steel Corporation to sign such an agreement?

A. We presented it to them.

Q. Through whom?

A. Mr. Sam Davey.

Q. You asked Mr. Sam Davey to take up the agreement with the corporation?

A. Yes, sir.

Q. When was that?

A. The last of June, which was the end of the scale year.

Q. Did Mr. Sam Davey report to you on that?

A. He did.

Q. What did he say?

A. He said the company would not sign the agreement.

Q. Did he say what reason, if any, was given by the company?

A. Only that they did not sign agreements with employes.

Recross Examination

BY MR. DAY:

Q. As I understand you, you had a written agree-

ment with the old Canton Tin Plate?

A. Yes, sir.

Q. And then your organization asked for an agreement after Republic took over Canton Tin Plate?

A. Yes, sir.

Q. And that was about June, 1936?

A. That was the last of June.

Q. And Republic would not make a signed agreement with your organization?

A. That is right.

MR. DAY: That is all.

TRIAL EXMINER LINDSAY: We will take a short recess at this point.

(Thereupon, a short recess was taken, after which the following occurred:)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

MR. LAUTER: Mr. Bratt?

WILLIAM J. BRATT

a witness called for and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

BY MR. LAUTER:

Q. Please state your name.

A. William J. Bratt.

Q. Where do you reside?

A. R. D. 7, Canton.

Q. Do you work in the steel mills?

A. I did; I worked from 1926 up until the strike, two years ago, when I lost my job.

Q. That was in 1935?

A. Yes, sir.

Q. For whom were you working?
A. For the 8-inch Mill.
Q. Where?
A. The old alloy division.
Q. Down here at Canton?
A. Yes.
Q. What did you do?
A. I was a strander, in the mill.
Q. While you were working in the 8-inch mill, was the Employes' Representation Plan in existence then?
A. Yes.
Q. When was that?
A. In 1933.
Q. Do you recall what month that was?
A. Pardon?
Q. Do you recall what month that was?
A. I think it was in June.
Q. What was the first notice you had of the Employes' Representation Plan, that it had been started?
A. The first notice I seen was a notice pasted on the bulletin board by the mill, that they was going to have such a plan.
Q. For the record, I will ask: The Tin Plate is one mill?
A. Yes.
Q. And the Alloy is another?
A. Yes.
Q. Two separate mills?
A. Yes.
Q. And the Employes' Representation Plan in which I am interested was the one in the Alloy Mill.
A. Yes.
Q. Did any voting take place in 1933?
A. Yes.
Q. How did you know that voting was going to take place?

A. Well, when I first heard anything about the voting for the nominations, my fellow workmen told me they was going to have nominations.

Q. Where did the voting for the nominations take place?

A. In the mill yard.

Q. Where in the mill yard?

A. Down in the mill yard.

Q. Did they have an election?

A. Yes, sir.

Q. Were you elected a representative?

A. Yes, sir.

Q. And that was in the Employes' Representation Plan, under the Alloy Division; is that right?

A. Yes, sir.

MR. LAUTER: Mr. Reporter, will you please mark this (indicating), for identification as Board's Exhibit No. 21?

(The document thereupon referred to was marked for identification as "Board's Exhibit No. 21.")

BY MR. LAUTER:

Q. I hand you Board's Exhibit No. 21, for identification, and ask you whether or not you have ever seen a copy of it before?

A. Yes, sir. That is a copy of the by-laws.

Q. When did you first see a copy of the by-laws?

A. We got this handed to us out of the pay window when we got our check.

Q. The pay window?

A. Yes, the pay window on Eighth Street.

MR. LAUTER: I offer this in evidence.

MR. DAY: No objection.

TRIAL EXAMINER LINDSAY: Board's Exhibit No. 21 is received in evidence.

(The document previously marked for identifica-

tion was marked as an exhibit, and received in evidence as Board's Exhibit 21.)

BY MR. LAUTER:

Q. Now, will you describe the voting that took place in 1933 by the representatives?

A. Well, we had ballots and ballot boxes and we were stationed in various places around the plant, and held the election, and the men that held the election, when I—

Q. You were in the 8-inch Mill?

A. Yes.

Q. Where was the balloting for your mill?

A. That was in what used to be old time office.

Q. Were booths set up for the purpose?

A. Yes, sir.

Q. You voted in these booths?

A. Yes, sir.

Q. Is there a general body set up under this plan?

A. Yes, sir.

Q. And what is the general body?

A. All the representatives of the different committees.

Q. Does that compose all the representatives who were elected?

A. Yes.

Q. And that constitutes the general body?

A. Yes.

Q. How often does the general body meet?

A. Every two months.

Q. Where would it meet?

A. For a while we met up in the Eighth Street office and later over to where the employment is, on Carnahan Avenue.

Q. Who else was present at the meetings of the general body, besides the elected representatives under the plan?

A. Myron Phillips.

Q. Who is Myron Phillips?

A. He was the head man of the representatives at that time?

Q. The by-laws provide for a management representative; is that correct?

A. Yes.

Q. Was Myron Phillips the management representative in 1933?

A. Yes.

Q. Did he attend the meetings of the general body at that time?

A. He used to sit in at the meetings.

Q. In addition to your being a member of the general body, were you on any committees of the representation plan?

A. Yes.

Q. What committee?

A. Committee No. 2, wages.

Q. Where did they hold their meetings?

A. In the same place as the others.

Q. The same as the general body plan?

A. Yes.

Q. How many members were there on committee No. 2, the wage committee?

A. Five of them, at one time.

Q. Five?

A. Yes, sir.

Q. Five what?

A. Well, we were supposed to represent the men.

Q. And there were also joint committees?

A. Yes.

Q. Who constituted the joint committees?

A. They had the same amount of representatives.

Q. What do you mean by "they"?

A. I mean the other five men on the other committee that would meet with us.

Q. Who were they?

A. They were men from the office force, and one thing and another, around through the plant.

Q. Were they employe representatives or company representatives?

A. They were company representatives.

Q. The joint committee was composed of five company representatives?

A. Yes, sir.

Q. And five employes' representatives; is that right?

A. Yes.

Q. And that was true of the general wage committee, as well as other committees?

A. Yes, sir.

Q. Were minutes taken of the meetings of the general body?

A. Yes, sir.

Q. Did you ever get any copies of the minutes?

A. Yes, sir.

Q. In what form did they come to you?

A. In a typewritten form.

Q. What did you do with them?

A. I put them up on the bulletin board.

Q. Where is that located?

A. In the stock house, at the 8-inch mill.

Q. What sort of a board is that?

A. A square board, with glass in front of it, and a lock on it.

Q. Who had the key to it?

A. I did.

Q. Did you open it and post the minutes?

A. Yes, sir.

Q. The minutes of the general body?

A. Yes.

Q. And of the wage committee; is that correct?

A. Yes, sir.

Q. Well, while you attended these meetings, did you get paid?

A. Yes, sir.

Q. And some of the meetings took place within your regular working hours?

A. Yes, sir.

Q. And some took place out of your regular working hours?

A. Yes, sir.

Q. How did you get paid—by check?

A. Yes.

Q. When the meetings were held in your regular working hours, did you get paid by a separate check?

A. Yes, sir.

Q. And when the meetings were held outside of your regular working hours, was that by separate check?

A. Well, we got our pay and also a check for the representatives.

MR. LAUTER: Mr. Reporter, will you please mark this Board's Exhibit No. 22, for identification?

(The document referred to was thereupon marked for identification as "Board's Exhibit No. 22.")

BY MR. LAUTER:

Q. I hand you Board's Exhibit No. 22, for identification, and ask you what that is?

A. That is the stub ticket of my pay check.

Q. That is, the check was attached to that?

A. Yes.

Q. And what are the words written on that?

A. It says "Representatives pay."

MR. LAUTER: I offer that in evidence as Board's Exhibit No. 22.

MR. DAY: No objection.

TRIAL EXAMINER LINDSAY: Board's Exhibit No. 22 is received in evidence.

(The document previously marked for identifica-

tion "Board's Exhibit No. 22," was marked as an exhibit and received.)

BY MR. LAUTER:

Q. Did you get a dollar an hour, or your average wages?

A. I got my average wages; we worked on the tonnage basis, and also regular.

MR. LAUTER: Mr. Reporter, will you kindly mark this for identification as Board's Exhibit No. 23?

(The document referred to was thereupon marked for identification as "Board's Exhibit No. 23.")

BY MR. LAUTER:

Q. The Republic Steel Corporation's Plan for Employes' Representation, dated June, 1933, and known as Board's Exhibit No. 21—was that ever amended?

A. Yes, sir.

Q. I hand you Board's Exhibit No. 23, for identification, and ask you if you will please describe that document and state whether you have ever seen it before?

A. Yes, I have seen that before.

Q. And when did you see it?

A. When I was a representative.

Q. Who gave it to you?

A. I got the book after the amendment was made, at the office, when I got my pay, the same place I got the other.

MR. LAUTER: I wish the record to show that I now offer in evidence Board's Exhibit No. 23, which includes a book known as the Plan of the Employes' Representation, established in June, 1933, and amended in June, 1934, and also containing a typewritten sheet attached to it, on which there is some typewritten matter.

MR. DAY: No objection.

TRIAL EXAMINER LINDSAY: Board's Exhibit No. 23 is received in evidence.

(The document previously marked for identification as "Board's Exhibit No. 23," was received in evidence.)

BY MR. LAUTER:

Q. Now, under this plan, as amended, general body meetings were also held; is that correct?

A. Yes, sir.

Q. And you attended these general body meetings?

A. Yes, sir.

Q. What transpired at these meetings, do you know?

A. Well, everything in general about wages, working conditions, and such stuff as that.

Q. And were certain matters taken up at the wage committee meetings?

A. Yes, sir.

Q. And were these matters referred to the management?

A. Yes, sir.

Q. Through whom were they taken to the management?

A. Mr. Myron Phillips used to take some of them to the management.

Q. Would there be a report back to the committee of what action was taken by the management?

A. Yes, sir.

Q. In some cases the request was rejected?

A. Yes, sir.

Q. On some of them that was true?

A. Yes, sir; on quite a few of them.

Q. And there was nothing you could do about that?

A. No, sir.

Q. Do you recall the election of representatives in June, 1934?

A. Yes, sir.

Q. Where did that take place?

A. Different places on the property.

MR. LAUTER: Mr. Reporter, will you please mark this for identification as Board's Exhibit No. 24.

(The document referred to was thereupon marked for identification as "Board's Exhibit No. 24.")

BY MR. LAUTER:

Q. I hand you Board's Exhibit No. 24, for identification, and ask you if you have seen that before?

A. Yes, sir; that is a sample of the ballot.

Q. Where did you get that?

A. At the meeting before we took the ballot boxes.

MR. LAUTER: I offer in evidence Board's Exhibit No. 24.

MR. DAY: No objection.

TRIAL EXAMINER LINDSAY: Board's Exhibit No. 24 is received in evidence.

(The document previously marked for identification as Board's Exhibit No. 24, was received in evidence.)

BY MR. LAUTER:

Q. Will you describe the 1934 election of representatives?

A. In 1934 I was a representative and we met over at the office on Cornahan Avenue and took our ballots and ballot boxes and went out on the post, and held our election. I had another man with me to help me, and we went up there and set up booths and took the vote. We had a sheet with the men's numbers on, and as they would come in to vote, we would check them off.

Q. Where did you get that sheet?

A. It was given to me over at our headquarters.

Q. Where?

A. Where we held our meetings; we all gathered there before we went out.

Q. What happened at the booths?

A. Well, a man would go into the booth and drop in the ballots, and as they came out we would check their names off.

Q. Was anybody else with you?

A. The fellow that was with me also checked them.

Q. Did he have a list?

A. Yes, we both did. There was a fellow there—I do not know who he was, but he would say: "Did this man vote?" and he would go out and, pretty soon, the man would come in and vote.

Q. Were you paid your expenses at the time you acted at the election?

A. Yes.

Q. Did you receive any other benefits?

A. We received our eats and smokes.

Q. Who furnished you with them?

A. Well, we went to the restaurant for them.

Q. Where?

A. Down in the mill yard.

Q. How were you able to get it there?

A. Well, it was a regular restaurant; of course, any other time we would have to pay for it.

Q. But, at this time, you did not pay for it; that was arranged for you?

A. Yes.

Q. How long did you stay at the booths?

A. It was going along for 24 hours while the turns were going on, and we counted the votes the next day.

Q. Were there any dues paid in under the Employees' Representation Plan?

A. Not as far as I know.

Q. Who paid for the cost of operation of this plan?

A. As far as I know, it was the company.

Q. There were ballots printed?

A. Yes, sir.

Q. There were minutes typed?

A. Yes, sir.

Q. And they were mailed to you?

A. Yes, sir; through the company's mail.

Q. There were notices of the meetings?

A. Yes.

Q. And you spent time that way, and were paid for it?

A. Yes, sir.

Q. And there were notices of the general body meetings, and special meetings of the general body, and also the special No. 2 wage committee?

A. Yes, sir.

Q. There was an annual conference provided for in the by-laws?

A. Yes, sir.

Q. Was any ever held?

A. Yes, sir.

Q. Where was that held?

A. Out at the country club, between here and Massillon.

Q. Do you recall the name of it?

A. No, sir; not now.

Q. Did you have anything to do with it?

A. Yes, sir.

Q. Who was present?

A. Quite a few of the officials of the company, Mr. Girder, and Mr. Portz.

Q. Did that cost you anything?

A. Nothing.

Q. Were there any other such occasions?

A. Yes, sir; we had a blow-out at the Iron Club, on Georgetown Road.

Q. That was limited to the employees and management?

A. Yes, sir.

MR. LAUTER: May I have this marked for iden-

tification as Board's Exhibit No. 25, Mr. Reporter?

(The document referred to was thereupon marked for identification as Board's Exhibit No. 25.)

BY MR. LAUTER:

Q. I hand you Board's Exhibit No. 25, for identification, and ask you when you received that?

A. In April, 1934.

Q. How did it come to you?

A. In the United States mail.

Q. Did it come to you in a Republic envelope?

A. Yes, sir.

MR. LAUTER: I offer in evidence as Board's Exhibit No. 25 this document I just had marked for identification.

MR. DAY: No objection.

TRIAL EXAMINER LINDSAY: Board's Exhibit No. 25 is received in evidence.

(The document previously marked for identification as "Board's Exhibit No. 25," was received in evidence.)

BY MR. LAUTER:

Q. Who is Mr. Eugene R. Roderick?

A. A roller in the 8-inch mill.

Q. Do you know that he was an employe representative?

A. He was chairman of the general body.

Q. During what year?

A. 1933-1934—well, that was while I was there.

MR. LAUTER: Mr. Reporter, will you please mark this for identification as Board's Exhibit No. 26?

(The document referred to was thereupon marked for identification as Board's Exhibit No. 26.)

BY MR. LAUTER:

Q. I hand you Board's Exhibit No. 26, for identification, and ask you when you received that?

A. Well, I could not just say when I received that, but it came to me through the mail.

Q. Was it in 1933 or 1934?

A. 1934, I think.

Q. How did you get that?

A. Through the mail.

Q. That was mailed to you?

A. Yes, sir.

Q. From the American Iron & Steel Institute; is that where it came from?

A. Yes, sir; that is what it says on the bottom of the page.

MR. LAUTER: I offer it in evidence as Board's Exhibit No. 26.

MR. DAY: We object to this as being put out by the Iron & Steel Institute.

MR. LAUTER: That is correct. I call your attention to page 56 of that document, which contains a statement by Mr. Roderick concerning which there has been testimony by this witness, that he was chairman of the general body at the time the witness received this document.

TRIAL EXAMINER LINDSAY: May I see that?

MR. DAY: Certainly (handing document to the Examiner).

TRIAL EXAMINER LINDSAY: Are you just offering that one page, Mr. Lauter?

MR. LAUTER: I am offering the whole document as having been received by this witness, and I will call your attention to the particular pages—66 and 67.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception. Board's Exhibit No. 26 is received in evidence.

(The document previously marked for identifica-

tion as "Board's Exhibit No. 26," was received in evidence.)

MR. LAUTER: That is all with this witness.

Cross Examination

BY MR. DAY:

Q. You were elected a member of the committee in 1933?

A. Yes, sir.

Q. And were you re-elected again in 1934?

A. How is that?

Q. Were you re-elected in 1934?

A. No, sir.

Q. You were elected for one year?

A. One year.

Q. And you quit your employment in 1935?

A. I did not quit. I was fired for some reason, but I do not know what.

Q. What part of 1935 was it?

A. It was in June.

Q. At the time of the strike out here at the Berger plant?

A. Yes.

Q. And you have not worked for Republic since?

A. No, sir.

Q. How many men were elected at the time you were elected in 1933?

A. I think there were about twenty.

Q. Altogether?

A. In the Republic division, and the Stark division—not the Cantor Culver Sheet.

Q. You worked in the alloy?

A. Yes.

Q. That used to be the United Alloy plant?

A. Yes, sir.

Q. And that went in with Central Steel, and they called it the Central Alloy?

A. Yes, sir.

Q. And did you make a campaign—that is, there were men nominated first?

A. Yes, sir.

Q. And there were half of the number nominated, elected?

A. Yes, sir.

Q. And you were one of those elected?

A. Yes, sir.

Q. Did you make a campaign?

A. No, I did not. I did not ask nobody to vote for me.

Q. But, anyhow, of the fourteen, you were one of the seven that was left?

A. I was voted in; yes, sir.

Q. And you were there one year?

A. Yes, sir.

Q. And the voting booths were installed around through the plant?

A. Yes, sir; at different places.

Q. Were they regular booths, as in any election?

A. Yes, sir.

Q. Did the men go in there and make out their ballot?

A. Yes, sir.

Q. Just like they have out in the precinct booths?

A. Yes, sir; with a lock on it.

Q. And I think you identified this (indicating) as being one of the ballots?

A. Yes, sir.

Q. I will read part of this:

"Nomination ballot for employe representatives. Directions to voters.

"This ballot is issued to qualified voters to nominate candidates for employee representatives.

"The voter, by using this ballot, approves the holding of nominations and elections as stated in the posted notice issued by the Employes' Committee on Rules, Ways, and Means, under the Plan of Employe Representation at this plant, and expresses his desire that those elected shall represent him in collective bargaining, and for the other purposes stated in the notice."

You were asked about this magazine, "Republic"?

A. Yes, sir.

Q. I notice you have photographs of the various employe representatives; were you on that (indicating)?

A. Yes, sir; my picture is right in there (indicating).

Q. Where?

A. Right there (indicating).

Q. Oh, right there on page 4?

A. Yes—you will always know me when you see me.

Q. All right.

And now, attached to the Employe Plan of Representation, adopted in 1933, and amended in 1934, there is this statement of June 5, 1934, that was sent out to all the employes of the Republic Steel Corporation; is that right?

A. I guess that is right.

Q. And you are—

A. (Interposing) That is my name (indicating).

Q. And that is a mimeograph of your signature, I suppose?

A. Yes, sir.

Q. You were told something about getting eats and smokes, without paying for them?

A. Yes, sir.

Q. That is when you had the election, as I understand?

A. Yes, sir.

Q. And you were one of the tellers?

A. Yes, sir.

Q. That is, you helped conduct the election?

A. Yes, sir.

Q. How many hours were you on the job?

A. Long enough to get hungry, and wanting to get something to eat.

Q. You got your eats and your smokes and they did not cost you anything?

A. That is right.

Q. And, one time, you went out to the country club between Canton and Massillon?

A. Yes, sir.

Q. And that was an employe gathering?

A. Yes, sir.

Q. And some of the officials of the company were there?

A. Yes, sir.

Q. Including Mr. Girder?

A. Yes, sir.

Q. And you did not have to pay anything for that?

A. Yes, sir.

Q. And at another time you went out to the Arion Club?

A. Yes, sir.

Q. Who was there?

A. Mr. Portz.

Q. And Myron Phillips was there?

A. Yes, sir.

Q. And he has since died?

A. Yes, sir; at the last meeting.

Q. At the meeting?

A. No, sir; on his way home.

Q. And at that meeting you did not have to pay for anything?

A. No, sir.

MR. DAY: I would like to call the Court's par-

ticular attention to this,—but I do not care to read it into the record.

TRIAL EXAMINER LINDSAY: That is all right.

MR. DAY: And in this particular exhibit (indicating), I would like to read the statement of Mr. Girder into the record.

TRIAL EXAMINER LINDSAY: What did you want to read in (examining document)?

MR. DAY: The statement of Mr. Girder.

TRIAL EXAMINER LINDSAY: I cannot see that it will do any good, Mr. Day.

MR. DAY: All right, but I will direct the Court's particular attention to it.

TRIAL EXAMINER LINDSAY: All right.

BY MR. DAY:

Q. One more question about your pay—when you took time off on these meetings, how were you paid?

A. Just according to what I would be making on my job.

Q. That is, you were getting the same pay?

A. The same pay as my fellow workmen, doing my regular job.

Q. And the same pay you would have got if you had stayed on the job and not gone to the meeting?

A. Yes.

MR. DAY: That is all.

Redirect Examination

BY MR. LAUTER:

Q. I think you testified that you were fired in 1935?

A. Yes.

Q. And you were not rehired?

A. That is right. I was sick with rheumatism, and when the doctor told me that I could go back to work they told me that I did not have no job, and when I asked them

why, they told me I was unwilling to go along with the job, that I was too stubborn—what he meant by that, I do not know.

MR. LAUTER: That is all.

MR. DAY: That is all.

(Witness excused).

MR. LAUTER: Mr. William Gottscheck.

WILLIAM GOTTSCHECK a witness called by and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

BY MR. LAUTER:

Q. Please state your name?

A. William Gottscheck.

Q. Where do you reside?

A. 817 Union Avenue, Southwest, Canton.

Q. Do you work for the Republic Steel Corporation?

A. Yes, sir.

Q. What plant?

A. The old Allied Plant.

Q. And are you still working there now?

A. Yes, sir.

Q. What is your job there?

A. First helper.

Q. Is that in any particular mill?

A. The Open Hearth department.

Q. When did you start working for Republic?

A. 1922 or 1923—I cannot just recall.

Q. Are you familiar with the Employes Representation Plan of the Allied?

A. Yes, sir.

Q. And were you elected a representative?

A. Yes, sir.

Q. When were you elected a representative?

A. In 1934.

Q. And have you been re-elected, in 1935-1936?

A. Yes, sir.

Q. Will you describe the voting which took place at the time you were elected in 1934-1935, or 1936; where was the voting held?

A. The voting was held in each department.

Q. And was the voting done on company time?

A. Yes, sir.

Q. And on company property?

A. Yes, sir.

Q. And you lost no time for the time you spent voting; is that right?

A. Yes, sir.

Q. Were you also a member of Wage Committee No. 2?

A. Yes, sir.

Q. What transpired at this meeting?

A. That was the committee for wages and employment working conditions, No. 2 committee.

Q. In addition to the standing committee, was there also a joint committee?

A. Yes.

Q. Were these minutes distributed to you as a representative?

A. Not of No. 2 committee.

Q. But of the general body?

A. Yes.

Q. Are you able to identify Board's Exhibit No. 23?

A. Not this part (indicating). This part here, I do.

Q. But you can identify the green book?

A. Yes.

Q. Which is the Plan of Employe Representative?

A. Yes.

Q. Known as Board's Exhibit No. 23? Is that correct?

A. Yes.

Q. But you have not seen the typewritten material which is attached to it?

A. No, sir.

Q. The question I am going to ask you is this: Was the operation of the plan, in 1935, 1936, and 1937, substantially the same as it was in 1934?

A. 1935, 1936, and 1937?

Q. Yes.

A. As far as I know.

Q. That is, the meetings were held in the same place?

A. Yes.

Q. Did you receive copies of the minutes?

A. Yes.

Q. You were paid for attending the meetings?

A. Yes.

Q. The minutes of the meetings were distributed to you?

A. Yes.

Q. And you posted them?

A. Yes.

Q. Substantially the same happened after July 5th, 1935, as before? Is that correct?

A. Yes, sir.

Q. Do you know Mr. Lohneis?

A. Yes, sir.

Q. Who is Mr. Lohneis?

A. He was a company representative?

Q. Was he present at the meeting of the general body?

A. Not when we had any discussion.

Q. But he was present at the meetings; is that correct?

A. After the meetings.

MR. DAY: I did not understand your answer.

THE WITNESS: After the meetings.

BY MR. DAY:

Q. And what was the answer before that?

A. Not during the meetings.

BY MR. LAUTER:

Q. Were the meetings to be addressed by Mr. Bortz?

A. Yes, sir.

Q. Have they ever been addressed by Mr. Meyers?

A. Yes, sir.

Q. That is, Mr. Carl Meyers?

A. Yes, sir.

Q. What is his position?

A. So far as I know, he was assistant to Mr. Bortz.

Q. Are you familiar with the Employes Representation Association?

A. I know some little about it.

Q. Tell me what little you know about it?

A. It was a plan that was being formed by the representatives when they heard that the Wagner Act was going to come into effect.

Q. Were there discussions at the general body meetings prior to the Wagner Act being upheld?

A. Yes.

Q. Concerning the formation of a new organization?

A. Yes.

Q. To be known as the Employes Representatives Association?

A. I don't know as to that name.

Q. It had not been given a name yet? Is that right?

A. Yes.

Q. A name was given to it subsequently?

A. I couldn't tell you.

Q. You did have discussions about this new organization?

A. Yes.

Q. Then the decision was upheld?

A. Yes.

Q. I mean the decision upheld the Wagner Act?

A. Yes.

Q. Then there was discussions about the new organization?

A. Yes.

Q. And then that new association was called the Employe Representatives Association; isn't that correct?

A. Yes, sir.

Q. Was there also a discussion as to the amount of dues to be paid in this new organization?

A. There was some discussion.

Q. Did you arrive at some decision as to how much dues were to be paid?

A. No, sir.

Q. You do know that certain membership cards and application cards were printed? Is that correct?

A. Yes.

Q. And the authority to print those cards and application blanks was given at meetings of the general body of the Employe Representatives Plan?

MR. DAY: Just a minute, please. I realize, of course, that the rules of evidence that apply in court do not apply here. Perhaps he has a right to ask leading questions if the Examiner permits him to do so; but it seems to me it would be better to ask what was heard and what was said instead of suggesting all of these things.

MR. LAUTER: That is more or less true but it does expedite matters.

TRIAL EXAMINER LINDSAY: No doubt he could get all of that by asking the other questions.

MR. DAY: It expedites but it does more than that. I want, respectfully, to suggest that it sort of conveys to the witness the answer.

MR. LAUTER: I think I have very infrequently violated any rules of evidence in this respect. But I

will accept the suggestion of Counsel for the Company.

MR. DAY: Thank you very much.

BY MR. LAUTER:

Q. Will you tell me what transpired at the meetings subsequent to the Act being upheld, with respect to any membership cards? Was there any discussion? Tell me what happened at the meetings?

A. I don't remember offhand.

Q. But membership cards were printed?

A. Yes, sir.

Q. Were application blanks printed?

A. There were application blanks printed.

Q. Did you discuss either the blanks or cards at any meeting of the general body?

A. Not to my knowledge.

Q. Did you discuss the fact you were going to print some sort of membership card?

A. Yes.

Q. And subsequently they were printed? Is that correct?

A. Yes, sir.

Q. I don't know whether the record shows clearly who Mr. Bortz is. Do you know what his position is?

A. I don't know. So far as I know, he was general manager of the two plants.

Q. By that you mean Canton and Massillon? Is that correct?

Yes.

MR. LAUTER: That is all.

MR. DAY: That is all.

BY TRIAL EXAMINER LINDSAY:

Q. How do you spell Mr. Bortz' name?

MR. LAUTER: It is B-o-r-t-z, I believe.

TRIAL EXAMINER LINDSAY: Is there any cross-examination?

MR. DAY: No, Your Honor.

TRIAL EXAMINER LINDSAY: Then, the witness may be excused.

(Witness excused).

MR. LAUTER: I will call Mr. Cox.

JOSEPH M. COX a witness called by and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

BY MR. LAUTER:

Q. What is your full name?

A. Joseph M. Cox.

Q. Mr. Cox, where do you reside?

A. Cottage No. 9, Meyers Lake.

Q. Are you employed by Republic Steel Corporation?

A. Yes, sir.

Q. When did you start to work for them?

A. In 1909, in November.

Q. Have you worked for them continuously?

A. Until 1919; and from 1923 on.

Q. That is, from 1923 to 1937 you have worked for Republic Steel Corporation?

A. Yes, sir.

Q. In what capacity have you worked for them?

A. I ran an election charging machine in the open hearth department.

Q. Are you familiar with the Employes Representation Plan?

A. From 1933 on; yes, sir—that is, part of 1933.

Q. Were you elected a representative under that plan?

A. I was.

Q. When were you elected a representative?

A. For the year 1935-1936, and 1936-1937.

Q. Will you identify Board's Exhibits 21 and 23?

A. Employes Representation Plan, 1933. That is that one (indicating). And this is the one amended in 1934.

Q. And that is Board's Exhibit No. 23; is that correct?

A. That is right; yes, sir.

Q. When did you receive a copy of Board's Exhibit No. 21? Tell me where you received it, and when?

A. From the Open Hearth representative.

Q. That was in the plant; is that correct?

A. Yes, sir.

Q. When did you receive a copy of Board's Exhibit No. 23?

A. From the same gentleman.

Q. A representative?

A. Yes, sir.

Q. In the plant?

A. Yes, sir.

Q. Were you one of the officers in the plant?

A. Yes, sir.

Q. What position did you hold?

A. Vice-chairman.

Q. When were you elected vice-chairman?

A. June 15, 1936.

Q. Who are some of the other officers in the plan, in June, 1936?

A. Frank Geltz was chairman and R. J. Lilley was secretary.

Q. And you attended the general body meetings under the plan?

A. Once a month.

Q. Where were they held?

A. Industrial Relations Building on Belden Avenue.

Q. How long would they last?

A. From 1 o'clock in the afternoon until away into the night—that is, 7 or 8 o'clock.

Q. And you got paid for attending those meetings?

A. In the years 1935 and 1936; yes, sir.

Q. What were your duties as vice-chairman of the plan?

A. As vice-chairman I filled in whenever the chairman was not there, and I also took the chair while he was making a speech, or addressing the board, or the general body.

Q. The minutes of those meetings were taken by Mr. Lilley?

A. Yes, sir.

Q. Were you a member of any of the committees set up under the plan?

A. Both years; in the first year, No. 1 committee.

Q. The first year means 1935 and 1936? By the first year you mean 1935 and 1936?

A. Yes. No. 1 committee, rules and ways and means.

Q. Where did they hold their meetings?

A. The Industrial Relations Building on Belden Avenue.

Q. What were the activities of the No. 1 committee?

A. They made rules and regulations for the rest of the general body to abide by in the elections, and they were judges of elections.

Q. Approximately how long would those meetings last?

A. Six or seven hours, sometimes, and sometimes less than that.

Q. Were you paid for attending those meetings?

A. Yes.

Q. You were paid by the company?

A. Yes, sir.

Q. You were also a member of the No. 2 committee, the Wage Committee?

A. Yes,—1936-1937. I was chairman.

Q. Were you chairman of the committee?

A. Yes.

Q. Will you describe the duties of the chairman and what the activities of that committee were in 1936-1937?

A. The chairman of No. 2 committee, Wages and Hours and Working Conditions. I was also a member of No. 2 joint committee.

Q. Tell me what happened at the standing committee?

A. If we had any petitions put in by the employes or the representatives, they were referred to us, meaning No. 2 committee, and we immediately assigned them through to a joint committee.

Q. Did you ever take any vote on any of the grievances?

A. In the year 1936-1937; no, sir.

Q. What was the reason that in 1936-1937 you never took a vote in the No. 2 wage committee?

A. We never had occasion to do it.

Q. You mean a grievance was never presented to you?

A. That is correct. We had one grievance in the whole year.

Q. One grievance in the whole year 1936-1937?

A. Yes, from June, 1936, to June 15, 1937.

Q. What happened to that grievance?

A. It was withdrawn by the men, themselves.

Q. So you never voted on any grievance at all?

A. That is right.

Q. Were there any joint committee meetings on wage conditions?

A. Once a month.

Q. Who attended those?

A. Five employe representatives and five officials of the company, superintendents, office men, and so on.

Q. Do you know whether or not they voted on any grievances?

A. I attended every meeting.

Q. Did they ever vote?

A. Not to my knowledge.

Q. No vote was ever taken?

A. No, sir.

Q. Do you know what happened on any of the other joint committees?

A. Only by hearsay; no.

Q. Did they ever vote? As vice-chairman of the plan, did you ever hear there was a vote?

A. In the year 1935-1936 I heard they had a vote. That was hearsay.

Q. Do you know what the outcome of that vote of the joint committee was?

A. Well, it was a six to four vote there.

Q. It was?

A. Yes. That was hearsay and not of my own knowledge.

Q. I understand that. Were there any five to five votes?

A. I understood there was, yes.

Q. How often did you hear there was a six-to-four vote?

A. Once or twice, anyway. I have no record for it.

Q. You were vice-chairman and you would know what was happening in the organization, wouldn't you? I mean, you heard what was happening in the organization?

A. You understand I was vice-chairman in the year 1936-1937.

Q. This was while you were representative on the general body?

A. Yes. I have heard that.

Q. You would have heard there were tie votes in the joint committee meetings?

A. That is right.

Q. And on one or two occasions there was a six-to-four vote?

A. By hearsay, yes.

Q. Is that when the company representatives voted with the employe representatives, or vice-versa?

A. Both ways, if I am not mistaken.

Q. That is one time the employe representative joined the other five?

A. That is right.

Q. And one time it was the other way?

A. Yes.

Q. And the other times were tie votes?

A. By hearsay,—yes, sir.

Q. Do you recall meetings that were held in Cleveland in the office of the Republic Steel Corporation with respect to the formation of a new organization?

A. I was elected a delegate to Cleveland and I was up there to a meeting; yes, sir.

Q. When was the first meeting that you attended at Cleveland?

A. March 8, 1937, if I am not mistaken.

Q. Did you attend any meeting in December, 1936?

A. In December?

Q. Yes.

MR. DAY: You mean in Cleveland?

MR. LAUTER: Yes, that is right.

BY MR. LAUTER:

Q. Or was the March meeting the first meeting that you recall?

A. I believe the March meeting was the first one I was a delegate to up here.

Q. But who were the other delegates?

A. Frank Geltz.

Q. Were there any others?

A. From Canton?

Q. Yes.

A. No. That is in the steel division. The subsidiaries may have had them, but I am just talking about the Steel Division.

Q. Frank Geltz and you were the delegates to the Cleveland meeting?

A. Yes.

Q. Did you go to the meeting?

A. Yes.

Q. Whom did you find there?

A. At the Cleveland meeting I met everybody. Eventually, at the different meetings I met Tom Girdler and Charley White.

Q. Did you ever meet any of the other delegates to the meetings?

A. Yes, sir.

Q. From where did they come?

A. Chicago, Ill.; Moline, Ill., and, in fact, all of the Northern States of the Republic Steel—Buffalo, New York, and Youngstown.

Q. And how many delegates were there?

A. Eighteen from ten districts.

Q. Were you addressed by any of the company officials at any of the meetings, or at this particular meeting in Cleveland—that is, the first one you attended?

A. We talked to them. We immediately went together and elected a chairman of these 18 delegates.

Q. Who was the chairman?

A. Harry Grimm, of Cleveland.

Q. When was that? Well, where was he from?

A. A dock worker from Cleveland.

Q. Were there any other officers elected?

A. Yes.

Q. Who were they?

A. Ed O'Connell of Buffalo, N. Y.

Q. How long did that first meeting last?

A. Until 8 o'clock in the evening.

Q. When did it start?

A. Nine o'clock in the morning.

Q. And you were in constant attendance at this meeting?

A. Yes, with the exception of lunch.

Q. Tell me what happened from 9 o'clock in the morning until 8 o'clock at night, in substance?

A. We had a body of 18 men there, and we elected a temporary chairman and a recording secretary and immediately we began to lay our by-laws out and see what they looked out, to see if they were all alike in the different districts.

Q. When you refer to the by-laws, you refer to the by-laws under the Employe Representative Plan?

A. That is right. And we seen where some of them had a little something better in them than we had, and maybe we had a little something better than they had, and we discussed that.

That meeting was also a wage-increase meeting, if I am not mistaken, and also at the same meeting I think our vacation plan came out of it. In fact, we did stay over until March 9th to thresh that out with the officials of the company.

Q. You mean the meeting lasted more than one day?

A. Two days; yes, sir; March 8th and March 9th.

Q. What happened on March 9th?

A. They gave us our agreement and our vacation plan we were arguing about the day before. They agreed to give a one-year man three days, and on up until a 15-year man got 10 days, if I am not mistaken. The company agreed to that and stated that the year previous 49 percent of the men got a vacation, but under this plan that we brought back to Canton 80 percent of the men would get a vacation.

Q. Who took you to the meeting in Cleveland?

A. I went up with Frank Geltz and Mr. Lohneis, if I am not mistaken.

Q. Did you drive up with Mr. Lohneis?

A. We drove up in his car, if I am not mistaken.

Q. At these meetings was there a central council set up?

A. Yes, there was.

Q. What was the central council to be?

A. Any argument we could not settle locally.

Q. Organizationally, what was it to be? Were there any delegates?

A. Yes, that is right, one or two men to each district, according to the size of the district.

Q. What do you mean by that?

A. Canton has two men, Pittsburgh two men, Youngstown two men, and Grant Crossing had only one delegate. They only employ a couple of hundred men there.

Q. How often were you supposed to meet?

A. Twice a year.

Q. In what months?

A. July and January.

Q. The first meeting you referred to was some time in March, 1937?

A. That is right.

Q. Your next meeting was to be some time in July?

A. That is right.

Q. As a matter of fact, you had a meeting before that, did you, or didn't you?

A. We did.

Q. Will you describe the next meeting that you attended?

A. It was some time about the 8th of April, if I am not mistaken.

Q. Did you ever discuss the formation of a new organization at any of these meetings?

A. Among the delegates?

Q. Yes.

A. Yes, sir. Among the delegates; yes, sir.

Q. Is that organization called the Employe Representative Association?

A. We left that to each locality to take care of their own,—That is, what they cared to call it.

Q. You mean the specific name was left to the specific localities?

A. Yes, whatever they wished to call it.

Q. What do they call it in Canton?

A. E. R. A.

Q. Employes Representative Association; is that right?

A. Yes.

Q. You say the next meeting was held in May—that is, the second meeting?

Well, let me ask you this question. Did you attend the meeting that was held after April 12th, the day the Supreme Court upheld the Wagner Act?

A. I know I attended one previous to the 12th of April.

Q. Did you attend any after that time?

A. What is the question?

Q. Did you attend any meeting after April 12th?

A. I believe I did one, if I am not mistaken.

Q. There was a meeting in May, wasn't there?

A. I think there was.

Q. Either the latter part of April or the first of May?

A. It was some time in April, up near the 8th of April, if I am not mistaken, and then again towards the latter part of April. It may not have been May, after all.

Q. And you attended as a delegate?

A. Every meeting, yes, that was called I was there.

Q. Are you still a delegate?

A. No, sir.

Q. How does it happen that you are no longer a delegate?

A. There is a new organization that elected delegates and sent them to Cleveland.

Q. What is the name of that new organization?

A. The Steel Workers Union, if I am not mistaken.

Q. The Steel Workers Union of America?

A. If I am not mistaken.

Q. And the delegates they elected supplanted you and Mr. Geltz?. It that correct?

A. Yes, that is correct.

Q. So the Employe Representative Association is no longer active? Or is it active? Let me ask you that.

A. I do not attend no meetings, personally, myself.

Q. Have you been called to any meetings?

A. No, sir.

Q. Do you know whether or not any meetings have been held?

A. I have been to this new one. Three weeks ago yesterday I was to an organizing meeting.

Q. Of what?

A. Of the United Steel Workers, or Union Steel Workers, or whatever it is.

Q. But I am referring to the Employe Representative Association.

A. I have not been to that.

Q. You do not know anything about it?

A. Not since the strike.

Q. Is the Employes Representative Plan still in existence?

A. What do you mean?

Q. The plan that was set up?

A. No, sir.

Q. Has it been formally dissolved, so far as you know?

A. So far as I know, it has.

Q. Do you know about any meetings in the plant conducted by representatives under the plan with respect to the new organization?

A. Speaking of my own department, the Open Hearth?

Q. That is right.

A. I went around and talked to the men individually, and also talked to them in a body after working hours.

Q. And you spoke to them about joining the Employe Representative Association?

A. I asked them if they wished to. I handed them an application and asked them if they wished to sign it, but if they did not it was all right; it was immaterial to me. They had elected me a representative and I was doing my duty, or what I figured was my duty—going around with the new organization and asking them if they wanted to sign it, and if they did not it was all right.

Q. Were there membership cards given out by the Employes Association?

A. Membership cards were given out by the employes.

Q. By the Employe Representative Association, or the E. R. A.?

A. Yes. I passed a hat and got a donation.

Q. Have you got a copy of that card?

A. Indeed I have.

Q. You are a member?

A. Yes.

Q. And you do have a membership card?

A. I have a membership card.

Q. Do you have it with you?

A. Yes.

Q. May I see it?

A. Yes.

Q. You don't mind parting with this, do you?

A. So long as I get it back.

Q. We will take a photostat copy and give you back the original.

A. O. K.

MR. LAUTER: I will ask that this be marked Board's Exhibit No. 27, for identification.

(The document referred to was thereupon marked for identification as Board's Exhibit No. 27.)

BY MR. LAUTER:

Q. I hand you Board's Exhibit No. 27, for identification, and ask you to describe it and tell me when you first received a copy of it?

A. The date on here is fourth month, twenty-fourth day, 1937.

Q. And this is your membership card?

A. Yes, sir.

Q. The membership card of Joseph M. Cox?

A. That is right—in the E. R. A.

MR. LAUTER: I offer that in evidence as Board's Exhibit No. 27.

MR. DAY: I have no objection.

TRIAL EXAMINER LINDSAY: Board's Exhibit No. 27 is received in evidence.

(The document referred to previously marked for identification as "Board's Exhibit No. 27," was received in evidence.)

TRIAL EXAMINER LINDSAY: May I see that Exhibit 27, Mr. Lauter?

MR. LAUTER: Yes, certainly; here it is.

Will you please mark this Board's Exhibit No. 28, for identification?

(The document referred to was thereupon marked for identification as Board's Exhibit No. 28.)

BY MR. LAUTER:

Q. I hand you Board's Exhibit No. 28, for identifica-

tion, and ask you to state when you first received it?

A. I had a typewritten copy that I took from Canton to Cleveland that looks like this.

Q. When you say you have a typewritten carbon copy that looks like this, you did get a copy like this, too, didn't you?

A. Yes, I did.

Q. And you received that from whom?

A. Mr. O'Connell.

Q. Who was Mr. O'Connell?

A. Secretary, Central Council of Employe Representatives, at Cleveland, a Buffalo employe.

Q. Mr. O'Connell is an employe of the Republic?

A. Yes.

Q. At the Buffalo plant?

A. Yes.

Q. And he was one of the delegates at the Cleveland meeting? Is that right?

A. Yes, and the secretary.

Q. And he sent you this draft? Is that correct?

A. I received one of these; yes, sir. I had one and I received one. I took one with me and eventually I got one mailed to me.

MR. LAUTER: I offer this in evidence as Board's Exhibit No. 28.

MR. DAY: No objection.

TRIAL EXAMINER LINDSAY: Board's Exhibit No. 28 is received in evidence.

(The document previously marked for identification as Board's Exhibit No. 28, was received in evidence.)

MR. LAUTER: I will ask that this be marked Board's Exhibit No. 29, Mr. Reporter.

(The document referred to was thereupon marked for identification as Board's Exhibit No. 29.)

BY MR. LAUTER:

Q. I now hand you Board's Exhibit No. 29, for identification, and ask you whether or not you ever saw a copy of that before?

A. I have.

Q. When did you see it?

A. It is the plan of the E. R. A.

Q. You say you did receive a copy of it?

A. Yes, I did have a copy of it. It is the plan of the E. R. A.

MR. LAUTER: I offer this in evidence as Board's Exhibit No. 29.

MR. DAY: No objection.

TRIAL EXAMINER LINDSAY: It will be received as Board's Exhibit No. 29.

(The document previously marked for identification as Board's Exhibit No. 29, was received in evidence.)

MR. LAUTER: That is all.

MR. DAY: No cross-examination.

MR. LAUTER: May I make this suggestion, Mr. Trial Examiner? It is now 4:40 and the next witness will take some time, I think, and will involve the introduction or the identification of minutes which I think will protract the proceedings. I would prefer not to begin with a new witness at this time if it can be avoided. I think Counsel for the Company will join in this request.

TRIAL EXAMINER LINDSAY: Very well, then. We will adjourn until 9:30 tomorrow morning.

MR. LAUTER: And, Mr. Trial Examiner, may I make this request, that you announce at the present time that the subpoenas which have been issued are still in force.

TRIAL EXAMINER LINDSAY: Yes. Anyone

who has received a subpoena is under the jurisdiction of the Board until he has been finally released by the attorneys who had the subpoena issued. In other words, you are here for the Board under the Board's subpoena, and the attorneys will have to release you.

The same thing applies to anyone subpoenaed by the Respondent.

The hearing tomorrow morning will be in courtroom No. 1, just across the hall.

(Thereupon, at 4:40 o'clock p. m., August 9, 1937, an adjournment was taken until Tuesday, August 10, 1937, at 9:30 o'clock a. m.)

Courtroom No. 1, Stark County Courthouse, Canton, Ohio,
Tuesday, August 10, 1937

The above-entitled matter came on for hearing, pursuant to adjournment, at 9:30 o'clock a. m.

Before:

John T. Lindsay, Trial Examiner.

Appearances:

Mark Lauter, Esq., Lawrence Hunt, Esq., Oscar Grossman, Esq., and Joseph A. Hoskins, Esq., appearing for the National Labor Relations Board.

H. C. Pontius, Esq., of the firm of Messrs. Lynch, Day, Pontius and Lynch (Canton, Ohio), and Luther Day, Esq., and Thomas F. Veach, Esq., of the firm of Messrs. Day, Young & Veach (1420 Union Trust Building, Cleveland, Ohio), appearing for the Respondent, the Republic Steel Corporation.

PROCEEDINGS

TRIAL EXAMINER LINDSAY: Gentlemen, the hearing is now called to order.

MR. LAUTER: I would like to call Mr. Lilly.

RAYMOND J. LILLY

a witness called by and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

BY MR. LAUTER:

Q. Will you please state your full name?

A. Raymond J. Lilly.

Q. Where do you reside?

A. 1429 Gibbs Avenue, Northeast, Canton, Ohio.

Q. Are you employed by the Republic Steel Corporation?

A. Yes, sir.

Q. In what plant?

A. In the Steel Division, Alloy Plant.

Q. How long have you been employed at the Republic Steel Corporation plant?

A. About 13 years.

Q. In what capacity?

A. First helper, electric furnace.

Q. Are you familiar with the Employes' Representation Plan at that plant?

A. Yes, sir.

Q. Are you an officer under the plan?

A. Yes, sir.

Q. What position do you hold under the plan?

A. Secretary.

Q. When did you become secretary?

A. In June, 1934.

Q. And you continued to be secretary for the duration of the Plan?

A. Yes, sir.

MR. LAUTER: I will ask that these two pages be marked for identification as Board's Exhibit No. 30.

(The documents referred to were thereupon marked for identification as "Board's Exhibit No. 30.")

BY MR. LAUTER:

Q. I now hand you Board's Exhibit No. 30, for identification, consisting of the General Body of Employe Representatives, Canton, Minutes of a Special Meeting, March 5, 1937, consisting of two pages. Will you please identify them.

A. Those are the minutes of the general body meeting, the special general body meeting for that date.

Q. And the date is March 5, 1937?

A. Yes, sir.

MR. LAUTER: I offer this in evidence as Board's Exhibit No. 30.

MR. DAY: No objection.

TRIAL EXAMINER LINDSAY: They will be received as Board's Exhibit No. 30.

(The documents previously marked for identification as Board's Exhibit No. 30, were received in evidence.)

BY MR. LAUTER:

Q. Mr. Lilly, I now hand you Board's Exhibit No. 30, for identification, consisting of two pages, and I will ask you if you will identify it.

(The documents referred to were thereupon marked for identification as "Board's Exhibit No. 31.")

A. Those are the minutes of a special meeting of the

general body of employe representatives, held May 28, 1937.

Q. Board's Exhibits 30 and 31, for identification, are minutes which were prepared by you? Is that correct?

A. Yes, sir.

MR. LAUTER: I now offer in evidence Board's Exhibit No. 31.

MR. DAY: No objection.

TRIAL EXAMINER LINDSAY: Board's Exhibit No. 31 is received in evidence.

(The documents previously marked for identification "Board's Exhibit No. 31," were received in evidence.)

MR. LAUTER: That is all for this witness.

MR. DAY: That is all.

(Witness excused.)

MR. LAUTER: Mr. Downard.

(*Continued on Page 1685, Volume III.*)

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